

THE NATIONAL ARCHIVES FEDERAL REGISTER OF THE UNITED STATES

1934

VOLUME 18 NUMBER 215

Washington, Tuesday, November 3, 1953

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

NATIONAL MEDIATION BOARD

Effective upon publication in the FEDERAL REGISTER, paragraphs (a) and (b) of § 6.127 are revoked, and § 6.327 (a) is added to Schedule C as set out below.

§ 6.327 *National Mediation Board.* (a) One private secretary to each member of the National Railroad Adjustment Board.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633. E. O. 10440, Mar. 31, 1953, 18 F. R. 1823)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 53-9245; Filed, Nov. 2, 1953; 8:47 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

NOTICE TO MANUFACTURERS OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

Pursuant to section 3 of the Administrative Procedure Act (60 Stat. 237, 238; 5 U. S. C. 1002) the following statement of interpretation is issued:

§ 3.30 *Shipment of antibiotic drugs packaged in bulk containers.* (a) The Food and Drug Administration has received inquiries from certain interested manufacturers concerning their shipment of certified antibiotics, packaged in bulk containers, to hospitals and pharmacies for repacking or for use in the manufacture of another drug on the order or prescription of a physician. The regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U. S. C. 357) do not prohibit the shipment of certified bulk containers of antibiotics to such persons. However, under the provisions of § 146.4

(b) (2) (i) of this chapter, certification should be requested of each repacked batch and of each batch of another drug manufactured from such bulk drug, unless the repackaged drug or other drug has been made exempt from the certification requirements by regulation. The fact that the drug is to be repacked or manufactured on the order or prescription of a physician does not exempt it from the certification requirements of the act. Under the provisions of § 146.4 (b) (2) (ii) of this chapter, it is only when the drug used to compound a prescription is in a container packaged for dispensing that certification of the drug so compounded is not required.

(b) In the light of these provisions, unless the manufacturer and shipper of bulk containers of antibiotics has, with the consignee, an effective permit issued under § 146.21 of this chapter, if the drug is to be repacked, or under § 146.22 of this chapter if it is to be used in the manufacture of another drug, the shipper has the responsibility of seeing that certification is requested of each repacked batch and of each batch of another drug manufactured from such drug.

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371. Interpretations or applies sec. 507, 49 Stat. 463, as amended, 67 Stat. 369; 21 U. S. C. 357, 371)

Dated: October 28, 1953.

[SEAL] NELSON A. ROCKEFELLER,
Acting Secretary.

[F. R. Doc. 53-9251; Filed, Nov. 2, 1953; 8:48 a. m.]

TITLE 7—AGRICULTURE

Chapter I—Production and Marketing Administration (Standards, Inspections, Marketing Practices), Department of Agriculture

Subchapter C—Regulations and Standards Under the Farm Products Inspection Act

PART 54—GRADING AND INSPECTION OF DOMESTIC RABBITS AND EDIBLE PRODUCTS THEREOF AND UNITED STATES SPECIFICATIONS FOR CLASSES, STANDARDS, AND GRADES WITH RESPECT THERETO

RECODIFICATION

By virtue of the authority (18 F. R. 4839) vested in me by the Secretary of (Continued on p. 6897)

CONTENTS

Agriculture Department	Page
See Production and Marketing Administration.	
Air Force Department	
Rules and regulations:	
Claims against the U. S., reimbursement to owners and tenants of land acquired by Air Force; Air Force Emergency Facilities Depreciation Board; list of contractor information on true depreciation	6940
Army Department	
Rules and regulations:	
National Guard; medical attendance and burial; miscellaneous amendments	6940
Civil Service Commission	
Rules and regulations:	
Competitive service, exceptions from; National Mediation Board	6895
Coast Guard	
Notices:	
International Convention for the Safety of Life at Sea: Acceptance of certificates issued pursuant to 1948 Convention	6945
Denunciation of 1929 Convention and determinations regarding certificates	6946
Rules and regulations:	
Security check and clearance of Merchant Marine personnel; identification credentials for persons requiring access to waterfront facilities or vessels; appeal and review procedures for persons denied security clearance	6941
Defense Department	
See Air Force Department; Army Department.	
Defense Minerals Exploration Administration	
Rules and regulations:	
Government aid in defense exploration projects; ratio of contributions	6941



Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Federal Register Division, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

The regulatory material appearing herein is keyed to the Code of Federal Regulations, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended August 5, 1953.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for \$1.50 per month or \$15.00 per year, payable in advance. The charge for individual copies (minimum 15¢) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D. C.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

Now Available

UNITED STATES GOVERNMENT ORGANIZATION MANUAL

1953-54 Edition
(Revised through July 1)

Published by the Federal Register Division,
the National Archives and Records Service,
General Services Administration

734 pages—\$1.00 a copy

Order from Superintendent of Documents,
United States Government Printing Office,
Washington 25, D. C.

CONTENTS—Continued

Defense Mobilization Office	Page
Notices:	
Edenton, North Carolina, area, finding and determination of critical defense housing areas under Defense Housing and Community Facilities and Services Act of 1951, as amended	6951
Federal Power Commission	
Notices:	
Hearings, etc..	
Alabama-Tennessee Natural Gas Co. et al.	6947
Arkansas Louisiana Gas Co.	6946
Blackstone Valley Gas and Electric Co.	6948
Bureau of Reclamation, Department of Interior	6946
Colorado Interstate Gas Co.	6948
El Paso Natural Gas Co.	6949
Natural Gas Pipeline Co. of America	6949

CONTENTS—Continued

Food and Drug Administration	Page
Proposed rule making:	
Cacao products; definitions and standards of identity coumarin	6945
Rules and regulations:	
Statements of general policy or interpretation; notice to manufacturers of antibiotic and antibiotic-containing drugs	6895
Health, Education, and Welfare Department	
See Food and Drug Administration.	
Immigration and Naturalization Service	
Notices:	
Assistant Commissioner, Inspections and Examinations Division; delegation of final authority with respect to adjustment of immigration status	6946
Interior Department	
See Defense Minerals Exploration Administration; Land Management Bureau.	
Internal Revenue Service	
Rules and regulations:	
Income and excess profits tax returns, consolidated; excess profits tax; taxable years ending after June 30, 1950; extension until December 31, 1953, of period with respect to which excess profits tax shall be effective	6939
Interstate Commerce Commission	
Notices:	
Applications for relief:	
Foreign woods from Gulf ports to Virginia	6949
Kyanite from Clover, S. C., to Wheeling, W. Va.	6950
Lard from Memphis, Tenn., to Georgia	6950
Liquefied chlorine gas from West Virginia to points in the South	6949
Rerouting and diversion of traffic:	
Minnesota Western Railway Co.	6950
New York, New Haven and Hartford Railroad Co.	6950
Rules and regulations:	
Power brakes and drawbars; investigation of power brakes and appliances for operating power brake systems	6942
Justice Department	
See Immigration and Naturalization Service.	
Land Management Bureau	
Rules and regulations:	
Alaska, partial revocation of Executive Order No. 8216 of July 25, 1939	6942
Production and Marketing Administration	
Proposed rule making:	
Milk handling in St. Louis, Mo.	6943

CONTENTS—Continued

Production and Marketing Administration—Continued	Page
Rules and regulations:	
Milk handling in the Tri-State marketing area	6933
Recodifications:	
Eggs and egg products; sampling, grading, grade labeling, and supervision of packaging	6908
Poultry and edible products thereof; grading and inspection and U. S. classes, standards and grades	6911
Rabbits, domestic, and edible products thereof; grading and inspection and U. S. specifications for classes, standards and grades	6905
Securities and Exchange Commission	
Notices:	
Hearings, etc..	
Adolf Gobel, Inc.	6951
Consolidated Natural Gas Co.	6952
Missouri Power & Light Co.	6952
Penn Fuel Gas, Inc., and John H. Ware, 3d	6952
Simplicity Pattern Co., Inc.	6951
Subversive Activities Control Board	
Notices:	
Attorney General v. Council of African Affairs, Inc.	6952
Treasury Department	
See Coast Guard; Internal Revenue Service.	
CODIFICATION GUIDE	
A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.	
Title 3	Page
Chapter II (Executive orders)	
8216 (revoked in part by PLO 925)	6942
Title 5	
Chapter I.	
Part 6	6895
Title 7	
Chapter I.	
Part 54	6895
Part 55	6908
Part 70	6911
Chapter IX.	
Part 903 (proposed)	6943
Part 972	6933
Title 21	
Chapter I.	
Part 3	6895
Part 14 (proposed)	6945
Title 26	
Chapter I.	
Part 24	6939
Part 40	6939
Title 32	
Chapter VII.	
Part 836	6940
Part 1021	6940
Chapter XI.	
Part 1101	6940

CODIFICATION GUIDE—Con.

Title 32A	Page
Chapter XII (DMEA)	
DMEA-1-----	6941
Title 33	
Chapter I.	
Part 121-----	6941
Part 125-----	6941
Title 43	
Chapter I.	
Appendix (Public land orders)	
925-----	6942
Title 49	
Chapter I.	
Part 132-----	6942

Agriculture and in accordance with the revised Federal Register regulations, the format of the regulations (7 CFR Part 54) governing the grading and inspection of domestic rabbits and edible products thereof and United States specifications for classes, standards, and grades with respect thereto, which are currently operative pursuant to the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U. S. C. 1621 et seq.) and the Department of Agriculture Appropriation Act, 1954 (Pub. Law 156, 83d Cong., approved July 28, 1953), is recodified as hereinafter set forth.

The recasting of the format due to such recodification is not intended, nor shall it be deemed, to make any substantive change in said regulations. Since the services and programs provided by the regulations are currently in effect, the regulations as presented in recodified form shall become effective upon publication in the FEDERAL REGISTER so as to avoid any interruption to the continuity of such services and programs.

The recodification is set forth below.

Issued at Washington, D. C., this 29th day of October 1953.

[SEAL] ROY W. LENNARTSON,
Assistant Administrator Pro-
duction and Marketing Ad-
ministration.

SUBPART A—GRADING AND INSPECTION OF DOMESTIC RABBITS AND EDIBLE PRODUCTS THEREOF

GENERAL

Sec.	
54.1	Definitions.
54.2	Administration.
54.3	Grading and inspection services available.

BASIS OF SERVICE

54.10	Inspection service.
54.11	Grading service.
54.12	Eligibility.
54.13	Supervision.

PERFORMANCE OF SERVICES

54.20	Licensed graders and inspectors.
54.21	Suspension of license or authority; revocation.
54.22	Surrender of license.
54.23	Identification.
54.24	Financial interest of inspectors and graders.
54.25	Political activity.

APPLICATION FOR GRADING SERVICE OR INSPECTION SERVICE

54.30	Who may obtain grading service or inspection service.
54.31	How application may be made.

Sec.	
54.32	Filing of application.
54.33	Authority of applicant.
54.34	Application for inspection service or grading service in official plants; approval.
54.35	Rejection of application.
54.36	Withdrawal of application.
54.37	Order of service.
54.38	Suspension of plant approval.

VIOLATIONS

54.45	Fraud or misrepresentation.
54.46	Interfering with a grader or inspector.

OTHER APPLICABLE REGULATIONS

54.50	Other applicable regulations.
-------	-------------------------------

PUBLICATIONS

54.55	Publications.
-------	---------------

IDENTIFYING AND MARKING PRODUCTS

54.60	Approval of official identification.
54.61	Products that may be individually grade marked; information required on grade mark.
54.62	Use of grade mark and inspection mark with respect to the same product.
54.63	Marking inspected products.

SUPERVISION OF MARKING AND PACKAGING

54.70	Evidence of label approval.
54.71	Affixing of official identification.
54.72	Packaging.
54.73	Retention labels.
54.74	Prerequisites to grading and inspection.
54.75	Accessibility of products.
54.76	Time of grading or inspection in an official plant.

REPORTS

54.80	Report of inspection work and grading work.
54.91	Information to be furnished to inspectors and graders.
54.92	Reports of violations.

FEES AND CHARGES

54.100	Payment of fees and charges.
54.101	Grading service on a fee basis.
54.102	Fees for appeal grading.
54.103	Domestic rabbits grading fees.
54.104	Inspection service on a fee basis.
54.105	Fees for additional copies of grading certificates and inspection certificates.
54.106	Traveling expenses and other charges.
54.107	On a contract basis.
54.108	Fees for grading service or inspection service performed under cooperative agreement.
54.109	Disposition of fees for inspection made under cooperative agreement.

INSPECTION

54.120	Manner of handling products in an official plant.
54.121	Ante-mortem inspection.
54.122	Evisceration.
54.123	Carcasses held for further examination.
54.124	Condemnation and treatment of carcasses.
54.125	Certification of carcasses.
54.126	Reinspection of edible products.
54.127	Appeal inspection; how made.

Inspection Certificates

54.140	Forms of inspection certificates.
54.141	Issuance and disposition of domestic rabbits inspection certificates.
54.142	Food product inspection certificates; issuance and disposition.
54.143	Export certificates; issuance and disposition.
54.144	Advance information.

GRADING

Sec.	
54.150	General.
54.151	Live domestic rabbits.
54.152	Ready-to-cook domestic rabbits.

Basis of Acceptability of Other Official Inspection Systems

54.160	General.
54.161	Requirements as to manner of inspection.
54.162	Determining compliance with § 54.161.

Grading Certificates

54.170	Forms.
54.171	Issuance and disposition.
54.172	Advance information.

Regrading

54.180	Application for regrading of a graded product.
54.181	Regrading certificates.

Appeal Grading

54.190	Application for appeal grading.
54.191	How to obtain appeal grading.
54.192	Record of filing time.
54.193	When an application for an appeal grading may be refused.
54.194	When an application for appeal grading may be withdrawn.
54.195	Who shall perform the appeal grading.
54.196	Appeal grading by immediate superior.
54.197	Order of performance of appeal grading.
54.198	Appeal grading certificates.

Superseded Certificates

54.205	Superseded certificates.
--------	--------------------------

SANITARY REQUIREMENTS

General

54.210	Minimum standards for sanitation, facilities, and operating procedures in official plants.
54.211	Authority of Administrator to amend minimum standards for sanitation, facilities, and operating procedures in official plants.

Buildings and Plant Facilities

54.220	Buildings.
54.221	Rooms and compartments.
54.222	Floors, walls, ceilings, etc.
54.223	Drainage and plumbing.
54.224	Water supply.
54.225	Lavatory accommodations.
54.226	Lighting and ventilation.

Equipment and Utensils

54.230	Equipment and utensils.
54.231	Accessibility.
54.232	Restrictions on use.

Maintenance of Sanitary Conditions and Precautions Against Contamination of Products

54.240	General.
54.241	Cleaning of rooms and compartments.
54.242	Cleaning of equipment and utensils.
54.243	Operations and procedures.
54.244	Temperatures and cooling and freezing procedures.
54.245	Vermis.
54.246	Exclusion of diseased persons.
54.247	Table showing types of materials.

SUBPART B—UNITED STATES STANDARDS FOR DOMESTIC RABBITS AND EDIBLE PRODUCTS THEREOF

U. S. SPECIFICATIONS FOR CLASSES OF READY-TO-COOK DOMESTIC RABBITS

54.260	General.
54.261	Fryer.
54.262	Roaster.

U. S. SPECIFICATIONS FOR STANDARDS OF QUALITY
FOR INDIVIDUAL READY-TO-COOK DOMESTIC
RABBITS

General

54.270 General.

Standards of quality

- 54.275 A Quality.
54.276 B Quality.
54.277 C Quality.

AUTHORITY: §§ 54.1 to 54.277 issued under sec. 205, 60 Stat. 1090, Pub. Law 156, 83d Cong., 7 U. S. C. 1624.

**SUBPART A—GRADING AND INSPECTION OF
DOMESTIC RABBITS AND EDIBLE PROD-
UCTS THEREOF**

GENERAL

§ 54.1 *Definitions.* Unless the context otherwise requires, the following terms shall have the following meaning:

"Act" means the following provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087, 7 U. S. C. 1621 et seq.) and of the Department of Agriculture Appropriation Act, 1954 (Pub. Law 156, 83d Cong., approved July 28, 1953) or any other act of Congress conferring like authority.

AGRICULTURAL MARKETING ACT OF 1946

* * * to develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices * * *

To inspect, certify, and identify the class, quality, quantity, and condition of agricultural products when shipped or received in Interstate Commerce under such rules and regulations as the Secretary of Agriculture may prescribe, including assessment and collection of such fees as will be reasonable and as nearly as may be to cover the cost of the service rendered, to the end that agricultural products may be marketed to the best advantage, that trading may be facilitated, and that consumers may be able to obtain the quality product which they desire, * * *

**DEPARTMENT OF AGRICULTURE APPROPRIATION
ACT, 1954**

For expenses necessary for acquiring and diffusing market information on agricultural commodities, food products and byproducts, the standardization, classification, grading, handling, storage, and marketing thereof, including the demonstration and promotion of the use of uniform standards of classification of American farm and food products throughout the world, * * *

* * * for investigating and certifying, in one or more jurisdictions, to shippers and other interested parties the class, quality, and condition of any agricultural commodity or food product, whether raw or processed, and any product containing an agricultural commodity or derivative thereof when offered for interstate shipment or when received at such important central markets as the Secretary may from time to time designate, or at points which may be conveniently reached therefrom under such rules and regulations as he may prescribe, including the collection of such fees as are reasonable and as nearly as may cover the cost of the service rendered; * * *

"Acceptable" means suitable for the purpose intended and acceptable to the Administration.

"Administration" means the Production and Marketing Administration of the Department.

"Administrator" means the Administrator of the Production and Marketing Administration of the Department, or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

"Applicant" means any interested party who requests any inspection service or grading service.

"Carcass" means any domestic rabbit carcass.

"Class" means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind.

"Condition" means any condition, including, but not being limited to, the state of preservation, cleanliness, or soundness of any product and the processing, handling or packaging which may affect such product.

"Condition and wholesomeness" means the condition of any product, its healthfulness and fitness for human food.

"Department" means the United States Department of Agriculture.

"Domestic rabbit grading and inspection service" means the personnel who are engaged in the administration, application, and direction of domestic rabbit grading and inspection programs and services pursuant to the regulations in this part.

"Edible product" means any product other than live domestic rabbits.

"Grader" means any employee of the Department authorized by the Secretary, or any other individual to whom a license has been issued by the Secretary, to investigate and certify in accordance with the regulations in this part, the class quality quantity, and condition of products.

"Grading" or "grading service" means (1) the act whereby a grader determines, according to the regulations in this part, the class, quality, quantity, or condition of any product by examining each unit thereof, or each unit of the representative sample thereof drawn by a grader, and issues a grading certificate with respect thereto; (2) in addition to the foregoing the act whereby the grader identifies, according to the regulations in this part, the graded product; and (3) any regrading or any appeal grading of a previously graded product.

"Grading certificate" means a statement, either written or printed, issued by a grader, pursuant to the regulations in this part, relative to the class, quality, quantity, or condition of a product.

"Identify" means to apply official identification to products or to containers thereof.

"Inspected and certified" or "certified" means, with respect to any product, that it has undergone an inspection and was found, at the time of such inspection, to be sound, wholesome, and fit for human food.

"Inspection," "inspection service" or "inspection of products for condition and wholesomeness" means any inspection by an inspector to determine, in accordance with the regulations in this part, (1) the condition and wholesome-

ness of domestic rabbits, or (2) the condition and wholesomeness of any edible product at any stage of the preparation or packaging thereof in the official plant where inspected and certified, or (3) the condition and wholesomeness of any previously inspected and certified product if such product has not lost its identity as an inspected and certified product.

"Inspection certificate" means a statement either written or printed, issued by an inspector, pursuant to the regulations in this part, relative to the condition and wholesomeness of products.

"Inspector" means any person who is licensed by the Secretary to investigate and certify, in accordance with the regulations in this part, the condition and wholesomeness of products. An inspector is an employee of the Department or of a State; he may be a graduate veterinarian or a layman.

"Interested party" means any person financially interested in a transaction involving any inspection or grading.

"National supervisor" means (1) the officer in charge of domestic rabbit inspection service of the Administration, (2) the officer in charge of domestic rabbit grading service of the administration, and (3) such other officers or employees of the Department who may be so designated by the officer in charge of the domestic rabbit grading and inspection service of the Administration.

"Office of grading" means the office of any grader.

"Official identification" means the symbol represented by a stamp, label, seal, or other device approved by the Administrator and affixed to any product, or to any container thereof, stating that the product was graded or inspected, or both; and the class, quality, or condition of such product as determined by a grader may be indicated.

"Official plant" means one or more buildings or parts thereof, comprising a single plant in which the facilities and methods of operation therein have been approved by the Administrator as suitable and adequate for operation under inspection or grading service and in which inspection or grading is carried on in accordance with the regulations in this part.

"Person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

"Potable water" means water which complies with the U. S. Public Health Service drinking water standards.

"Product" means ready-to-cook domestic rabbits and, with respect to grading service only, live domestic rabbits.

"Quality" means the inherent properties of any product which determine its relative degree of excellence.

"Ready-to-cook domestic rabbit" means any domestic rabbit which has been slaughtered for human food, from which the head, blood, skin, feet, and inedible viscera have been removed, that is ready to cook without need of further processing or any cut-up or disjointed portion of such domestic rabbit.

"Regional supervisor" means any regional supervisor of the Administration in charge of domestic rabbit grading

service or domestic rabbit inspection service in a designated geographical area.

"Regulations" means the provisions of this entire part and such United States specifications for classes, standards, and grades for products as may be in effect at the time grading or inspection is performed.

"Secretary" means the Secretary of the Department, or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

"State supervisor" means any authorized and designated individual who is in charge of domestic rabbit grading service or domestic rabbit inspection service in a State. A State supervisor of domestic rabbit inspection service shall be a veterinarian and he is either a Federal-State employee or a Federal employee.

"Station supervisor" means any authorized individual who is designated to supervise domestic rabbit grading service or domestic rabbit inspection service in a large official plant or in a group of several small plants.

§ 54.2 *Administration.* The Administrator shall perform for and under the supervision of the Secretary, such duties as are prescribed in the regulations in this part and as the Secretary may require in the administration of the regulations in this part.

§ 54.3 *Grading and inspection services available.* The regulations in this part provide for the following kinds of services; and any one or more of the different services, applicable to official plants, may be rendered in an official plant.

- (a) Grading of live domestic rabbits.
- (b) Inspection of ready-to-cook domestic rabbits.
- (c) Grading of ready-to-cook domestic rabbits.
- (1) In an official plant.
- (2) At terminal markets and other receiving points other than official plants.

BASIS OF SERVICE

§ 54.10 *Inspection service.* Any inspection service in accordance with the regulations in this part shall be for condition and wholesomeness.

§ 54.11 *Grading service.* Any grading service in accordance with the regulations in this part shall be for class, quality, quantity, or condition or any combination thereof. Grading service with respect to determination of quality of products shall be on the basis of United States specifications for classes, standards, and grades as contained in Subpart B of the regulations in this part. However, grading service may be rendered with respect to products which are bought and sold on the basis of institutional contract specifications and such service, when approved by the Administrator, shall be rendered on the basis of the specifications of such contract.

§ 54.12 *Eligibility.* (a) Only domestic rabbits which are processed in official plants in accordance with the regulations

in this part may be graded or inspected; and only domestic rabbits which are inspected pursuant to the regulations in this part or inspected and passed by any other official inspection system acceptable to the Administration may be graded.

(b) All domestic rabbits that are eviscerated in an official plant where inspection service is maintained, shall be inspected for condition and wholesomeness and no uninspected edible products shall be brought into such official plant.

§ 54.13 *Supervision.* All grading service and all inspection service shall be subject to supervision at all times by the applicable station supervisor, State supervisor, regional supervisor, and national supervisor. Such service shall be rendered where the facilities and conditions are satisfactory for the conduct of the service and the requisite graders and inspectors are available.

PERFORMANCE OF SERVICES

§ 54.20 *Licensed graders and inspectors.* (a) Any person who is a Federal or State employee possessing proper qualifications as determined by an examination for competency, and who is to perform grading service or inspection service may be licensed by the Secretary as a grader or an inspector.

(b) Any prospective grader, other than a Federal or State employee, possessing proper qualifications as determined by an examination for competency and who is to perform grading service may be licensed by the Secretary as a grader. However, prior to granting of the license, he shall procure and deliver to the Administration a surety bond, issued by such surety as may be approved by the Administrator, in the amount of \$1,000 for the proper performance of the duties of such licensee under the regulations in this part.

(c) All licenses issued by the Secretary shall be countersigned by the officer in charge of the domestic rabbit grading and inspection service of the Administration or any other designated official of such service.

§ 54.21 *Suspension of license or authority; revocation.* Pending final action by the Secretary, the aforesaid officer in charge of the domestic rabbit grading and inspection service may, whenever he deems such action necessary, suspend any license or authority effective pursuant to the regulations in this part, by giving notice of such suspension to the respective individual involved, accompanied by a statement of the reasons therefor. Within seven days after the receipt of the aforesaid notice and statement of reasons by such individual, he may file an appeal, in writing, with the Secretary supported by any argument or evidence that he may wish to offer as to why his license or authority should not be suspended or revoked. After the expiration of the aforesaid seven-day period and consideration of such argument and evidence, the Secretary will take such action as he deems appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed seven days the license is revoked.

§ 54.22 *Surrender of license.* Each license which is suspended or revoked, or has expired, shall promptly be surrendered by the licensee to his immediate superior. Upon termination of the services of a licensed grader, the licensee shall promptly surrender his license to his immediate superior for cancellation.

§ 54.23 *Identification.* Each grader and inspector shall have in his possession at all times, and present upon request while on duty, the means of identification furnished by the Department to such person.

§ 54.24 *Financial interest of inspectors and graders.* No inspector shall inspect and no grader shall grade any product in which he is financially interested.

§ 54.25 *Political activity.* All graders and inspectors who are employees of the Department are forbidden during the period of their respective appointments or licenses, to take an active part in political management or in political campaigns. Political activity in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, is prohibited. This applies to all appointees, including, but not being limited to, temporary and cooperative employees and employees on leave of absence with or without pay. Willful violation of §§ 54.20 to 54.25 will constitute grounds for dismissal in the case of appointees and revocation of licenses in the case of licensees.

APPLICATION FOR GRADING SERVICE OR INSPECTION SERVICE

§ 54.30 *Who may obtain grading service or inspection service.* An application for grading service or inspection service may be made by any interested person, including but not being limited to, the United States, any State, county, municipality, or common carrier, and any authorized agent of the foregoing.

§ 54.31 *How application may be made.* (a) An application for inspection service shall be made in writing and filed with the Administrator.

(b) An application for grading service to be rendered in an official plant shall be made in writing and filed with the Administrator.

(c) An application for any grading service to be rendered other than in an official plant may be made in any office of grading or with any grader at or nearest the place where the service is desired. Such application may be made orally, in writing, or by telegraph. If the application for grading service is made orally, the office of grading, grader with whom the application is made, or the Administrator may require that the application be confirmed in writing.

(d) Each application for grading service or inspection service shall include such information as may be required by the Administrator in regard to the products and premises where the service is to be rendered.

§ 54.32 *Filing of application.* An application for grading service or inspection service shall be regarded as filed only

when made pursuant to the regulations in this part.

§ 54.33 *Authority of applicant.* Proof of the authority of any person applying for grading service or inspection service may be required at the discretion of the Administrator.

§ 54.34 *Application for inspection service or grading service in official plants; approval.* Any person desiring to process and pack products in a plant under grading service or inspection service, or both, must receive approval of such plant as an official plant prior to the rendition of such service. An application for grading service or inspection service to be rendered in an official plant shall be approved according to the following procedure:

(a) *Initial survey.* When application has been filed for grading service or inspection service, as aforesaid, an examination of the plant and premises shall be made by the regional supervisor, or his assistant, and the necessary facilities specified for the service. Appeals with respect to any such specification may be made to the national supervisor.

(b) *Drawings and specifications to be furnished.* Four copies of drawings, consisting of floor plans of space to be included in the official plant, showing the locations of such features as the principal pieces of equipment, floor drains, hand washing facilities, hose connections for clean-up purposes, cardinal points of the compass, and the routes of edible and inedible products through the plant, properly drawn to scale, shall be submitted to the regional supervisor. The official plant shall include toilet and dressing rooms, office space for the inspector and grader, store rooms for supplies used in the operations under inspection or grading, feeding rooms, and all rooms, compartments or passageways where products or any ingredients to be used in the preparation of products under inspection service or grading service will be handled or kept, and may include other rooms or compartments located in the building or buildings comprising the official plant. If rooms or compartments shown on the drawings are not to be included as part of the official plant, this should be clearly indicated thereon. Specifications covering the height of ceilings, types of principal pieces of equipment, character of floors, walls, and ceilings, lighting, ventilation, water supply, and drainage, and such other notations as may be required, shall accompany the drawings. Construction or remodeling of buildings, facilities, or premises should not be initiated without prior approval of the drawings. Upon approval of drawings and specifications the application for grading service or inspection service may be approved.

(c) *Final survey and plant approval.* Prior to the inauguration of the grading service or inspection service, a final survey of the plant and premises shall be made by the regional supervisor or his assistant to determine if the plant is constructed and facilities are installed in accordance with the approved drawings and the regulations in this part. The plant may be approved only when

these requirements have been met, except that conditional approval for a specified limited time may be granted only under emergency conditions of restricted availability of facilities and construction materials, provided practices suitable to the Administrator are employed to effect adequate sanitary conditions in the plant.

§ 54.35 *Rejection of application.* Any application for grading service or inspection service may be rejected by the Administrator (a) for noncompliance, by the applicant, with the act or the regulations in this part, or (b) whenever the product involved is owned by, or located on the premises of, a person currently denied the benefits of the act. Each such applicant shall be notified immediately of the reasons for the rejection.

§ 54.36 *Withdrawal of application.* Any application for grading or inspection service may be withdrawn by the applicant at any time before the service is performed upon payment, by the applicant, of all expenses incurred by the Administration in connection with such application.

§ 54.37 *Order of service.* Grading service or inspection service shall be performed, insofar as practicable, in the order in which application therefor is made except that precedence may be given to any application for an appeal inspection or appeal grading.

§ 54.38 *Suspension of plant approval.* (a) Any plant approval given pursuant to the regulations may be suspended for (1) failure to maintain plant and equipment in a satisfactory state of repairs; (2) the use of operating procedures which are not in accordance with the regulations; or (3) alterations of buildings, facilities, or equipment which cannot be approved in accordance with the regulations.

(b) During such period of suspension, inspection and grading service shall not be rendered. However, the other provisions of the contract for service will remain in effect unless terminated in accordance with the terms thereof. If the plant facilities or methods of operation are not brought into compliance within a reasonable period of time, to be specified by the Administrator, the contract shall be terminated. Upon termination of any contract providing for inspection or grading service in an official plant pursuant to the regulations, the plant approval shall also become terminated, and all labels, seals, tags or packaging material bearing official identification shall, under the supervision of a person designated by the Administration, either be destroyed, or the official identification completely obliterated, or sealed in a manner acceptable to the Administration.

VIOLATIONS

§ 54.45 *Fraud or misrepresentation.* Any wilful violation of the regulations in this part, the use of the terms "Government graded," "Federal-State graded," or terms of similar import in the labeling or advertising of any product without stating in conjunction therewith the

U. S. grade of the product, or any wilful misrepresentation or deceptive or fraudulent practice found to be made or committed by any person in connection with:

(a) The making or filing of an application for any grading service or inspection service;

(b) The use of any grading certificate or inspection certificate issued pursuant to the regulations in this part, or the use of any official identification;

(c) The use of the terms "United States" or "U. S." in conjunction with the grade of the product;

(d) The use of any of the aforesaid terms or an official identification in the labeling or advertising of any product; or

(e) The use, in connection with any product, of a facsimile form which simulates in whole or in part any official identification; may be deemed sufficient cause for debarring such person from any or all benefits of the act after opportunity for hearing has been accorded him; and, pending investigation and hearing, the Administrator may, without hearing, direct that such person shall be denied the benefits of the act.

§ 54.46 *Interfering with a grader or inspector.* Any further benefits of the act and the regulations in this part may be denied any applicant who either personally or through an agent or representative interferes with or obstructs, by intimidation, threats, ridicule, or assault, or in any other manner, a grader or inspector in the performance of his official duties.

OTHER APPLICABLE REGULATIONS

§ 54.50 *Other applicable regulations.* Compliance with the regulations in this part shall not excuse failure to comply with any other applicable Federal, State, or municipal laws or regulations.

PUBLICATIONS

§ 54.55 *Publications.* Publications under the act and the regulations in this part shall be made in the FEDERAL REGISTER, the Service and Regulatory Announcements of the Department, and such other media as the Administrator may approve for the purpose.

IDENTIFYING AND MARKING PRODUCTS

§ 54.60 *Approval of official identification.* (a) Any label or packaging material which bears any official identification shall be used only in such manner as the Administrator may prescribe. No label or packaging material bearing official identification may be used unless finished copies or samples of such labels and packaging material have been approved by the Administrator. No label bearing official identification shall be printed for use until the printer's final proof has been approved by the Administrator and no label, other than labels for shipping containers or containers for institutional packs, bearing any official identification shall be used until finished copies or samples of such labels have been approved by the Administrator. Final approval may be given to printer's final proof or photostatic copies of labels for shipping containers or containers for

institutional packs, and no such labels shall be used until such proofs or copies have been approved by the Administrator. A label which bears official identification shall not bear any statement that is false or misleading, and if labels in the name of the same packer or distributor, or bearing the same brand name, are used on the same or similar products which are prepared from products which are not inspected, the diameter of the inspection mark, or combination inspection and grading mark, used on labels for inspected products shall be equal to at least one-tenth of the length of the label, plus at least one-tenth of the width of the label. If the labeling is printed or otherwise applied directly to the container, the principal display panel of such container, shall, for this purpose, be considered as the label.

(b) Any present supply of labels approved, pursuant to the applicable provisions of Part 70 of this chapter, prior to the effective time of the regulations in this part may continue to be used until such present supply is exhausted.

§ 54.61 *Products that may be individually grade marked; information required on grade mark.* Only ready-to-cook domestic rabbits which are of A Quality or B Quality may be individually identified with a grade mark. Except as otherwise authorized each grade mark which is to be used shall conspicuously indicate the U. S. grade and class of the product it identifies and shall include one of the following phrases: "Federal-State Graded," or "Government Graded," or a phrase of similar import. Such grade mark shall be contained within the outline of a shield of such design as may be prescribed or approved by the Administrator.

§ 54.62 *Use of grade mark and inspection mark with respect to the same product.* The Administrator is authorized to prescribe and approve the form of the grade mark and inspection mark that may be used individually or in combination with respect to the same product.

§ 54.63 *Marking inspected products—(a) Wording and form of the inspection mark.* Except as otherwise authorized the inspection mark permitted to be used with respect to inspected and certified edible products shall include wording as follows: "Inspected for wholesomeness by U. S. Department of Agriculture." This wording, in such form as the Administrator may prescribe or approve, shall be contained within a circle. The Administrator may approve the use of abbreviations of such inspection mark; and such approved abbreviations shall have the same force and effect as the inspection mark. The inspection mark or approved abbreviation thereof, as the case may be, may be applied to the inspected and certified edible product or to the packaging material of such product. The inspection mark, or the approved abbreviation thereof, shall, when used on packaging material, be printed on such material or on a label to be affixed to the packaging material, and the name of the packer or distributor of such product must be legibly printed on the pack-

aging material or label, as the case may be.

(b) *Wording on labels.* Each trade label to be approved for use pursuant to §§ 54.60 to 54.63 with respect to any inspected and certified edible product shall bear the true name of the edible product, the name and address of the packer or distributor thereof, and in prominent letters and figures of uniform size, the inspection mark, as aforesaid; and the label shall also bear, in such manner as may be prescribed or approved by the Administrator, the plant number, if any, of the official plant in which such product was inspected and certified.

(c) *Labels in foreign languages.* Any trade label to be affixed to a container of any edible products for foreign commerce may be printed in a foreign language. However, the inspection mark shall appear on the label in English, but, in addition, may be literally translated into such foreign language. Each such trade label which is to be printed in a foreign language must be approved pursuant to §§ 54.60 to 54.63.

(d) *Use of approved labels.* Trade labels approved for use pursuant to §§ 54.60 to 54.63 shall be used only for the purpose for which approved.

SUPERVISION OF MARKING AND PACKAGING

§ 54.70 *Evidence of label approval.* No grader or inspector shall authorize the use of official identification for any graded or inspected product unless he has on file evidence that such official identification or packaging material bearing such official identification has been approved in accordance with the provisions of §§ 54.60 to 54.63.

§ 54.71 *Affixing of official identification.* (a) No official identification or any abbreviation, copy or representation thereof may be affixed to or placed on or caused to be affixed to or placed on any product or container thereof except by a grader or an inspector or under the supervision of a grader or an inspector or other person authorized by the Administrator. All such products shall have been inspected and certified, or graded, or both. The grader or inspector shall have supervision over the use and handling of all material bearing any official identification.

(b) Each container of inspected and certified edible products to be shipped from one official plant to another official plant for further processing shall be marked for identification and shall show the following information:

(1) The name of the inspected and certified edible products in the container;

(2) The name and address of the packer or distributor of such product;

(3) The net weight of the container;

(4) The inspection mark permitted to be used pursuant to the regulations in this part, unless the containers are sealed or otherwise identified in such manner as may be approved by the Administrator; and

(5) The plant number of the official plant where the products were packed.

§ 54.72 *Packaging.* No container which bears or may bear any official

identification or any abbreviation or copy or representation thereof may be filled in whole or in part except with edible products which were inspected and certified or graded or both and are at the time of such filling, sound, wholesome and fit for human food. All such filling of containers shall be under the supervision of an inspector or grader.

§ 54.73 *Retention labels.* An inspector or grader may use such labels, devices and methods as may be approved by the Administrator for the identification (a) of products which are held for further examination, and (b) all equipment and utensils which are to be held for proper cleaning.

§ 54.74 *Prerequisites to grading and inspection.* Grading and inspection of products shall be rendered pursuant to the regulations in this part and under such conditions and in accordance with such methods as may be prescribed or approved by the Administrator.

§ 54.75 *Accessibility of products.* Each product for which grading service or inspection service is requested shall be so arranged so as to permit adequate determination of its class, quality, quantity, and condition as the circumstances may warrant.

§ 54.76 *Time of grading or inspection in an official plant.* The grader or inspector who is to perform the grading or inspection in an official plant shall be informed, in advance, by the applicant of the hours when such grading or inspection is desired. Graders and inspectors shall have access at all times to every part of any official plant to which they are assigned.

REPORTS

§ 54.90 *Report of inspection work and grading work.* Reports of the work of inspection and grading carried on within official plants shall be forwarded to the Administrator by the inspector and grader in such manner as may be specified by the Administrator.

§ 54.91 *Information to be furnished to inspectors and graders.* When inspection service or grading service is performed within an official plant, the applicant for such inspection or grading shall furnish to the inspector or grader rendering such service such information as may be required for the purposes of §§ 54.90 to 54.92.

§ 54.92 *Reports of violations.* Each inspector and each grader shall report, in the manner prescribed by the Administrator, all violations of and noncompliance with the act and the regulations in this part of which he has knowledge.

FEES AND CHARGES

§ 54.100 *Payment of fees and charges.* (a) Fees and charges for any grading or inspection shall be paid by the applicant for the service in accordance with the applicable provisions of §§ 54.100 to 54.109 and, if so required by the Administrator, such fees and charges shall be paid in advance.

(b) Fees and charges for any grading or inspection performed by any grader

or inspector who is a salaried employee of the Department shall, unless otherwise required pursuant to paragraph (c) of this section, be paid by check, draft, or money order payable to the Treasurer of the United States and remitted promptly to the Administration.

(c) Fees and charges for any grading or inspection pursuant to a cooperative agreement with any State or person shall be paid in accordance with the terms of such cooperative agreement.

§ 54.101 *Grading service on a fee basis.* (a) Unless otherwise provided in this part the fees to be charged and collected for any grading service (other than for an appeal grading) on a fee basis shall be based on the applicable rates specified in § 54.103.

(b) In the event the aforesaid applicable rates specified in § 54.103 are deemed by the Administrator to be inadequate fully to reimburse the Administration for all costs and other items paid or incurred by the Administration in connection with such service, the fees for such service shall not be based on the rates specified in § 54.103, but shall be based on the time required to perform such service and the travel of each grader at the rate of \$3.60 per hour for the time actually required.

(c) If an applicant requests that any grading service be performed on a holiday or a non-work day, he may be charged for such service at a rate one and one-half times the rate which would otherwise be applicable for such service if performed on a day other than on a holiday or non-work day.

§ 54.102 *Fees for appeal grading.* The fees to be charged for any appeal grading shall be double the fee specified in the grading certificate from which the appeal is taken: *Provided*, That the fee for any appeal grading requested by the United States, or any agency or instrumentality thereof, shall be not more than that set forth in the grading certificate from which the appeal is taken. If the fee on the certificate from which the appeal is taken is based on a contract, then the fee for such appeal grading shall be double the amount specified in § 54.103 for the applicable volume of product appeal graded. If the result of any appeal grading discloses that a material error was made in the grading appealed from, no fee shall be required.

§ 54.103 *Domestic rabbits grading fees.* For each grading of any lot of domestic rabbits, whether live or ready-to-cook, the following fees shall be applicable:

For 500 pounds or less.....	\$1.50
For 501 to 1,500 pounds, inclusive....	2.25
For 1,501 to 3,000 pounds, inclusive....	3.00
For 3,001 to 6,000 pounds, inclusive....	4.00
For 6,001 to 10,000 pounds, inclusive....	6.00
For 10,001 to 20,000 pounds, inclusive....	10.00
For each additional 10,000 pounds, or fraction thereof, in excess of 20,000 pounds.....	3.00

§ 54.104 *Inspection service on a fee basis.* Fees to be charged and collected for inspection services furnished on a fee basis shall be based on the time required to render such services including, but not

being limited to, the time required for the travel of the inspector or inspectors in connection therewith, at the rate of \$3.60 per hour for each inspector for the time actually required.

§ 54.105 *Fees for additional copies of grading certificates and inspection certificates.* Additional copies, other than those provided for in §§ 54.141 and 54.171, of any grading certificates or inspection certificates, may be supplied to any interested party upon payment of a fee of \$1.00 for each set of five or fewer copies.

§ 54.106 *Traveling expenses and other charges.* Charges may be made to cover the cost of traveling and other expenses incurred by the Administration in connection with the performance of any grading service or inspection service.

§ 54.107 *On a contract basis.* Fees to be charged and collected for any grading service or inspection service, other than for an appeal grading, on a contract basis shall be those provided for in such contract. The fees to be charged for any appeal grading shall be as provided in § 54.102.

§ 54.108 *Fees for grading service or inspection service performed under cooperative agreement.* The fees to be charged and collected for any grading service or inspection service performed under cooperative agreement shall be those provided for by such agreement.

§ 54.109 *Disposition of fees for inspection made under cooperative agreement.* Fees for inspection under a cooperative agreement with any State or person shall be disposed of in accordance with the terms of such agreement. Such portion of the fees collected under a cooperative agreement as may be due the United States shall be remitted to the Administration.

INSPECTION

§ 54.120 *Manner of handling products in an official plant.* Unless otherwise specified in the regulations in this part or by the Administrator, products which are to be further processed under inspection in an official plant shall be prepared and handled in such official plant under the supervision of an inspector.

§ 54.121 *Ante-mortem inspection.* Ante-mortem examination of domestic rabbits is required as a prerequisite to any inspection; and such ante-mortem examination shall be carried out under such conditions and in accordance with such methods as may be prescribed or approved by the Administrator.

§ 54.122 *Evisceration.* No viscera or any part thereof shall be removed from any domestic rabbits which are to be processed under inspection in any official plant, except at the time of evisceration and inspection. Each carcass to be eviscerated shall be opened so as to expose the organs and the body cavity for proper examination by the inspector and shall be prepared immediately after inspection as ready-to-cook domestic rabbit.

§ 54.123 *Carcasses held for further examination.* Each carcass, including all parts thereof, in which there is any lesion

of disease, or other condition, which might render such carcass or any part thereof unfit for human food, and with respect to which a final decision cannot be made on first examination by the inspector, shall be held for further examination. The identity of each such carcass, including all parts thereof, shall be maintained until a final examination has been completed.

§ 54.124 *Condemnation and treatment of carcasses.* Each carcass, or any part thereof, which is found to be unsound, unwholesome, or otherwise unfit for human food shall be condemned by the inspector and shall receive such treatment, under the supervision of the inspector as will prevent its use for human food and preclude dissemination of disease through consumption by animals.

§ 54.125 *Certification of carcasses.* Each carcass and all parts and organs thereof which are found by the inspector to be sound, wholesome, and fit for human food shall be certified as provided in this part.

§ 54.126 *Reinspection of edible products.* (a) Any inspected and certified edible product may be brought into an official plant only if the container of such product is marked for identification in the manner prescribed in § 54.71 (b) and the product is reinspected by an inspector at the time it is brought into such plant. Upon reinspection, if any such product or portion thereof is found to be unsound, unwholesome, or otherwise unfit for human food, such product, or portion thereof, shall be condemned and shall receive such treatment as that provided in § 54.124.

(b) Any product which is prepared under inspection in an official plant shall be inspected in such plant as often as the inspector deems it necessary in order to ascertain whether such product is sound, wholesome, and fit for human food at the time such product leaves such plant. Upon any such inspection, if any such product or portion thereof is found to be unsound, unwholesome, or otherwise unfit for human food, such product or portion thereof shall be condemned and shall receive such treatment as that provided in § 54.124.

(c) All substances and ingredients used in the manufacture or preparation of any edible product shall be clean, sound, wholesome, and fit for human food.

§ 54.127 *Appeal inspection, how made.* Any interested party may, if dissatisfied with any decision of an inspector relating to any inspection, file an appeal from such decision. Any such appeal from a decision of an inspector shall be made to his immediate superior having jurisdiction over the subject matter of the appeal. Review of such appeal findings, when requested, shall be made by the immediate superior of the employee of the Department making the appeal inspection.

Inspection Certificates

§ 54.140 *Forms of inspection certificates.* Each inspection certificate issued pursuant to the regulations in this part

shall be approved by the Administrator as to form, and:

(a) Each domestic rabbit inspection certificate shall show the class or classes of domestic rabbits, the quantity of product contained in the respective lot, and all pertinent information concerning the condition and wholesomeness thereof;

(b) Each food product inspection certificate shall show the names of the edible products covered by such certificate, the quantity of each such product, such shipping marks as are necessary to identify such products, and all pertinent information concerning the condition and wholesomeness thereof;

(c) Each export certificate shall show the respective names of the exporter and the consignee, the destination, the shipping marks, the numbers of the export stamps attached to the edible products to be exported and covered by the certificate, and the names of such products and the total net weight thereof.

§ 54.141 *Issuance and disposition of domestic rabbits inspection certificates.*

(a) Upon the request of an interested party, any inspector is authorized to issue a domestic rabbit inspection certificate with respect to any lot of dressed domestic rabbits inspected by him. Each certificate shall be signed by the inspector who made the inspection covered by the certificate, and if more than one inspector participated in the inspection of the lot of domestic rabbits, each such inspector shall sign the certificate with respect to such lot.

(b) The original of each inspection certificate, issued pursuant to §§ 54.140 to 54.144, and not to exceed three copies thereof, shall, immediately upon issuance, be delivered or mailed to the applicant or person designated by him. One copy shall be filed in the office of the regional supervisor serving the area in which the inspection was performed, and the remaining copies to be disposed of in such manner as the Administrator may approve. Additional copies of any such certificate may be furnished to any interested party as provided in § 54.105.

§ 54.142 *Food product inspection certificates; issuance and disposition.*

(a) Upon the request of an interested party, any inspector is authorized to issue a food product inspection certificate with respect to any inspected and certified edible product after suitable examination of the product has been made by the inspector.

(b) The original of each food product inspection certificate, and not to exceed two copies thereof, if requested, shall, immediately upon issuance, be delivered or mailed to the applicant or person designated by him. Another copy shall be filed in the office of the regional supervisor serving the area in which such certificate was issued, and one copy shall be forwarded to the Administrator. The last named two copies shall be retained until otherwise ordered by the Administrator.

§ 54.143 *Export certificates; issuance and disposition.* (a) Upon the request of an exporter, any inspector is authorized to issue an export certificate with respect to the shipment to any foreign

country of any inspected and certified edible product after suitable examination of the product has been made by the inspector.

(b) Each export certificate shall be issued in quintuplicate; the original shall be delivered to the exporter who requested such certificate; and the duplicate copy shall be delivered to the agent of the railroad or other carrier transporting such products from the United States. The triplicate copy of such export certificate shall be forwarded to the Administrator; the quadruplicate copy shall be filed in the office of the regional supervisor serving the area in which such export certificate was issued and the memorandum copy shall be retained by the inspector for filing. The last named three copies shall be retained until otherwise ordered by the Administrator.

§ 54.144 *Advance information.* Upon the request of an applicant, all or part of the contents of any inspection certificate issued to such applicant may be telephoned or telegraphed to him, or to any person designated by him, at his expense.

GRADING*

§ 54.150 *General.* Grading service performed with respect to any quantity of products shall, as the case may require, be on the basis of an examination, pursuant to the regulations in this part, of each unit thereof or of each unit in the representative sample thereof drawn by a grader. Whenever the grading service is performed on a representative sample basis, such sample shall be drawn and consist of not less than the minimum number of containers as indicated in the following table:

[Minimum number of containers comprising a representative sample]

Containers in lot:	Containers in samples
3 containers, or less.....	(1)
4 to 10, inclusive.....	3
11 to 20, inclusive.....	4
21 to 50, inclusive.....	7
51 to 100, inclusive.....	10
In excess of 100 containers.....	(2)

* All containers.

* 10 percent of the number of containers in the lot.

§ 54.151 *Live domestic rabbits.* Grading service performed with respect to any quantity of live domestic rabbits shall, as the case may require, be on the basis of an examination, pursuant to regulations in this part, of each unit thereof or of each unit in the representative sample thereof drawn by a grader. Such domestic rabbits may be identified with official identification on a lot basis only.

§ 54.152 *Ready-to-cook domestic rabbits—(a) In an official plant.* Grading service performed in an official plant with respect to ready-to-cook domestic rabbits shall, as the case may require, be on the basis of each individual carcass or on a representative sample basis.

(1) Only such ready-to-cook domestic rabbits which have been inspected and certified, pursuant to the regulations in this part, or have been inspected and passed by any other official inspection

system which is acceptable to the Administrator, may be graded.

(2) Only such ready-to-cook domestic rabbits which were graded on an individual carcass basis and are of A Quality or B Quality may be individually identified with the appropriate grade mark, and any container of such ready-to-cook domestic rabbits may also be so identified. The grading of ready-to-cook domestic rabbits shall be performed prior to the disjointing or cutting up of the respective carcass.

(3) If the ready-to-cook domestic rabbits are of C Quality only the bulk container of such ready-to-cook domestic rabbits may be identified with the appropriate grade mark even though the grading may have been performed on an individual carcass basis.

(b) *At terminal markets and other receiving points.* Grading service performed with respect to ready-to-cook domestic rabbits at terminal markets and other receiving points may be on a representative sample basis. Only such ready-to-cook domestic rabbits which were processed in an official plant and are graded on an individual carcass basis may be individually identified with a grade mark. Only ready-to-cook domestic rabbits which were inspected and certified and are marked with the inspection mark or in accordance with the provisions of § 54.71 (b) may be graded.

Basis of Acceptability of Other Official Inspection Systems

§ 54.160 *General.* Any domestic rabbit inspection system may be deemed to be acceptable to the Administrator which (a) is conducted under the authority of laws, ordinances, or similar enactments of the State, county, city, or other political subdivision in which is located the official plant at which the ready-to-cook domestic rabbits are prepared and submitted for grading service; and (b) imposes at least the requirements set forth in § 54.161. *Provided,* That no such inspection shall be deemed acceptable to the Administrator with respect to any official plant in which ready-to-cook domestic rabbits are prepared if he finds at any time that such requirements are not adequately enforced.

§ 54.161 *Requirements as to manner of inspection.* (a) The inspection shall be conducted by an inspector who is a qualified veterinarian or under the supervision of a qualified veterinarian. All such inspectors shall be employed by the State, county, city, or other political subdivision in which the official plant is located.

(b) The inspection shall include post-mortem examination of each domestic rabbit carcass during the evisceration operation.

(c) All carcasses which show evidence of disease or any other condition which may render them unwholesome or unfit for food shall be condemned and shall be destroyed for food purposes under the supervision of an inspector. Each carcass and part thereof which has been inspected and passed or containers of carcasses or parts thereof shall bear the identifying inspection symbol of the

other official inspection system and the marking devices or labels shall be in the custody of the inspector at all times.

§ 54.162 *Determining compliance with § 54.161.* A qualified veterinary supervisor of the domestic rabbit grading service of the Administration shall investigate the manner of operation of the inspection system to determine the adequacy of the postmortem examination and the compliance with the requirements contained in §§ 54.160 to 54.162 prior to approving the official plant for the grading of ready-to-cook domestic rabbits. This supervisor as well as any official graders who may be stationed in the official plant shall periodically observe the inspection operations in the official plant to determine that the requirements of §§ 54.160 to 54.162 are being met. If at any time the inspector fails to enforce the requirements as set forth in the inspection system, grading service may be withdrawn from the official plant.

Grading Certificates

§ 54.170 *Forms.* Grading certificates (including appeal grading certificates and regrading certificates) shall be issued on forms approved by the Administrator.

§ 54.171 *Issuance and disposition.* (a) Each grader shall issue a grading certificate covering each product graded.

(b) The original of each grading certificate, issued pursuant to §§ 54.170 to 54.172, and not to exceed three of the copies thereof, shall, immediately upon issuance, be delivered or mailed to the applicant or person designated by him. One copy shall be filed in the office of grading serving the area in which the grading service was performed, and the remaining copies shall be disposed of in such manner as the Administrator may approve. Additional copies of any such certificate may be furnished to any interested party as provided in § 54.105.

§ 54.172 *Advance information.* Upon the request of an applicant, all or part of the contents of any grading certificate issued to such applicant may be telephoned or telegraphed to him, or to any person designated by him, at his expense.

Regrading

§ 54.180 *Application for regrading of a graded product.* An application for a regrading of any previously graded product may be made at any time by any interested party, and such application shall clearly state the reasons for requesting the regrading. The provisions of the regulations relative to grading service shall apply to regrading service.

§ 54.181 *Regrading certificates.* Immediately after a regrading has been completed, a regrading certificate shall be issued showing the results of such regrading; and such certificate shall thereupon supersede, as of the time of issuance of the regrading certificate, the grading certificate previously issued for the product involved. Each regrading certificate shall clearly set forth the number and date of the grading certifi-

cate which it supersedes. The provisions of §§ 54.170 to 54.172 shall, whenever applicable, also apply to regrading certificates except that copies of such regrading certificates shall be furnished each interested party of record.

Appeal Grading

§ 54.190 *Application for appeal grading.* An application for an appeal grading may be made by any interested party who is dissatisfied with any determination stated in any grading certificate only if the identity of the product, or representative sample thereof, on the basis of which a determination was made has not been lost, and such application for the appeal grading is made within two days following the day on which the grading was performed. Upon approval by the Administrator, the time within which an application for an appeal grading may be made may be extended.

§ 54.191 *How to obtain appeal grading.* Appeal grading may be obtained by filing a request therefor (a) with the Administrator, (b) with the grader who issued the grading certificate with respect to which the appeal grading is requested, (c) with the immediate superior of such grader, or (d) with the officer in charge of any office of grading. The application for appeal grading shall clearly state the reasons therefor and may be accompanied by a copy of the aforesaid grading certificate or any other information the applicant may have secured regarding the product, at the time of grading, from which the appeal is requested. Such application may be made orally (in person or by telephone) in writing, or by telegraph. If made orally, written confirmation may be required.

§ 54.192 *Record of filing time.* A record showing the date and hour when each such application for appeal grading is received shall be maintained in such manner as the Administrator may prescribe.

§ 54.193 *When an application for an appeal grading may be refused.* Notwithstanding the provisions of § 54.190, if it appears to the Administrator that the reasons for an appeal grading are frivolous or not substantial, or that the quality or condition of the products has undergone a material change since the grading from which the appeal is made, or the identical products that were examined to ascertain the grade thereof cannot be made accessible for reexamination, or the act or regulations in this part have not been complied with, the Administrator may refuse the applicant's request for the appeal grading, and such applicant shall be promptly notified of the reason for such refusal.

§ 54.194 *When an application for appeal grading may be withdrawn.* An application for appeal grading may be withdrawn by the applicant at any time before the appeal grading is made upon payment, by the applicant, of all expenses incurred by the Administration in connection with such application.

§ 54.195 *Who shall perform the appeal grading.* An appeal grading of any

graded product shall be made by any grader (other than the one from whose grading the appeal is made) designated for this purpose by the Administrator; and, whenever practical, such appeal grading shall be conducted jointly by two such graders.

§ 54.196 *Appeal grading by immediate superior.* Notwithstanding the provisions of §§ 54.190 to 54.198, whenever the immediate superior of a grader has evidence that such grader incorrectly graded a product, such superior shall immediately make a regrading of the product.

§ 54.197 *Order of performance of appeal gradings.* Appeal gradings shall be performed, insofar as practical, in the order in which applications therefor are received; but any such application may be given precedence pursuant to § 54.37.

§ 54.198 *Appeal grading certificates.* Immediately after an appeal grading has been completed, an appeal grading certificate shall be issued showing the results of such appeal grading. Such certificate shall thereupon supersede the grading certificate for the product involved and such supersedure shall be effective as of the time of issuance of the grading certificate with respect to which the appeal is made. Each appeal grading certificate shall clearly set forth the number and the date of the grading certificate which it supersedes. The provisions of §§ 54.170 to 54.172 shall, whenever applicable, also apply to appeal grading certificates except that copies of such appeal grading certificates shall be furnished each interested party of record.

Superseded Certificates

§ 54.205 *Superseded certificates.* Whenever any grading certificate is superseded in accordance with the regulations in this part such certificate shall become null and void as of the effective time of supersedure. If the original and all copies of such superseded certificate are not delivered to the person issuing the regrading certificate or appeal grading certificate, he shall notify such persons as he considers necessary to prevent fraudulent use of the superseded certificate.

SANITARY REQUIREMENTS

General

§ 54.210 *Minimum standards for sanitation, facilities, and operating procedures in official plants.* The provisions of §§ 54.210 to 54.247 shall apply with respect to grading service and inspection service in all official plants. The table set forth in § 54.247 indicates some of the types of material which may be used in the construction of equipment, utensils and facilities for use in the plant.

§ 54.211 *Authority of Administrator to amend minimum standards for sanitation, facilities, and operating procedures in official plants.* The Administrator is authorized to amend the provisions in §§ 54.210 to 54.247 and such amended provisions shall be applicable to official plants.

Buildings and Plant Facilities

§ 54.220 *Buildings.* The buildings shall be of sound construction and kept in good repair, and shall be of such construction as to prevent the entrance or harboring of vermin.

(a) *Outside openings.* (1) The doors, windows, skylights and other outside openings of the plant, except receiving rooms and live rabbit holding rooms, shall be protected by properly fitted screens or other suitable devices against the entrance of flies and other insects.

(2) Outside doors, except in receiving rooms and live rabbit holding rooms shall be self-closing and so hung that not over $\frac{1}{4}$ inch clearance remains when closed. Screen doors shall open toward the outside of the building.

§ 54.221 *Rooms and compartments.* Rooms and compartments used for edible products shall be separate and distinct from inedible products departments and from rooms where rabbits are slaughtered and skinned. Separate rooms shall be provided when required for conducting processing operations in a sanitary manner; and all rooms shall be of sufficient size to permit the installation of the necessary equipment for processing operations and the conduct of such operations in a sanitary manner.

(a) *Rooms for separate operation.* The official plant should have separate rooms for each of the following operations depending upon the various types of operations conducted; but in no case shall the receiving or holding of live rabbits or killing operations be permitted in rooms in which eviscerating operations are performed:

(1) The receiving and feeding of live rabbits.

(2) Killing and skinning operations.

(3) Eviscerating, chilling, and packing operations for ready-to-cook rabbits.

(4) Inedible products departments.

(5) Refuse room.

(b) *Rooms for holding carcasses for further inspection.* Rooms and compartments in which carcasses or parts thereof are held for further inspection shall be in such number and such location as the needs of the inspection in the plant may require. They shall be equipped with locks and keys and the keys shall not leave the custody of the inspector in charge of the plant. All such rooms and compartments shall be marked conspicuously with the word "retained" in letters not less than 2 inches high.

(c) *Coolers and freezers.* Coolers and freezers of adequate size and capacity shall be provided to reduce the internal temperature of ready-to-cook domestic rabbits prepared and otherwise handled in the plant to 36° F. within 24 hours unless other cooling facilities are available.

(d) *Refuse rooms.* Refuse rooms shall be entirely separate from other rooms in the plant, and shall have tight fitting doors and be properly ventilated.

(e) *Storage and supply rooms.* The storage and supply rooms shall be in good repair, kept dry, and maintained in a sanitary condition.

(f) *Boiler room.* The boiler room shall be a separate room, if necessary,

to prevent its being a source of dirt and objectionable odors entering any room where ready-to-cook rabbits are prepared, processed, handled and stored.

(g) *Inspector's office.* Furnished office space, including, but not being limited to, light, heat and janitor service shall be provided rent free in the official plant, for the exclusive use for official purposes of the inspector or grader and the Administration. The room or rooms set apart for this purpose must meet with the approval of the regional supervisor and be conveniently located, properly ventilated and provided with lockers or cabinets suitable for the protection and storage of supplies and with facilities suitable for inspectors and graders to change clothing.

(h) *Toilet rooms.* Toilet rooms opening directly into rooms where domestic rabbit products are exposed shall have self-closing doors and shall be ventilated to the outside of the building.

§ 54.222 *Floors, walls, ceilings, etc.* The floors, walls, ceilings, partitions, posts, doors and other parts of all compartments shall be of such material, construction, and finish as will make them susceptible of being readily and thoroughly cleaned.

(a) *Floors.* (1) All floors, except those which are kept dry, shall be constructed of hardened concrete, or of tile laid closely together with impervious joint material, or of other similar impervious material and kept in good repair.

(2) All floors except those which are kept dry shall be graded to permit run-off with no standing water and in new construction and renovated plants the pitch shall be not less than $\frac{1}{4}$ inch per foot to drains.

(b) *Ceilings and walls.* (1) Ceilings and walls in rooms and compartments where exposed edible products are processed, handled, or stored shall have tiled, enameled, or other smooth surface impervious to moisture.

(2) Cooler and freezer rooms shall have interior surfaces as are impervious to moisture and permit thorough cleaning.

(c) *Blood disposal.* (1) Adequate facilities shall be provided for the disposal of blood in a sanitary manner.

(2) When bleeding troughs are used they shall be long enough to catch the blood during the bleeding process and shall be cleaned daily. Such troughs shall be installed so as to pitch at least $\frac{1}{2}$ inch per foot toward a smooth metal catch basin or basins, of sufficient capacity for a day's operation at peak production, or shall be flushed continuously.

§ 54.223 *Drainage and plumbing.* There shall be an efficient drainage and plumbing system for the plant and premises.

(a) *Drains and gutters.* All drains and gutters shall be properly installed with approved traps and vents. The drainage and plumbing system must permit the quick run-off of all water from plant buildings, and surface water around the plant and on the premises; and all such water shall be disposed of in such a manner as to prevent a nuisance or health hazard.

(b) *Sewage and plant wastes.* (1) The sewerage system shall have adequate slope and capacity to remove readily all waste from the various processing operations and to minimize, and if possible to prevent, stoppage and surcharging of the system.

(2) Grease traps which are connected with the sewerage system shall be suitably located but not near any edible products department or in any area where products are unloaded from, or loaded into, vehicles. To facilitate cleaning, such traps shall have inclined bottoms and be provided with suitable covers.

(3) In new construction toilet soil lines shall be separate from house drainage lines to a point outside the buildings; and drainage from toilet bowls and urinals shall not be discharged into a grease catch basin.

(4) All floor drains shall be equipped with traps, constructed so as to minimize clogging; and the plumbing shall be so installed as to prevent sewerage from backing up and from flooding the floor.

(5) Floor drainage lines should be of metal and at least 4 inches in diameter and open into main drains of at least 6 inches in diameter and shall be properly vented to outside air.

(6) Where refrigerators are equipped with drains, such drains should be properly trapped and should discharge through an air gap into the sewer system. All new installations, and all replacements, of refrigerators equipped with drains shall meet these requirements.

§ 54.224 *Water supply.* The water supply shall be ample, clean, and potable with adequate facilities for its distribution in the plant, and its protection against contamination and pollution.

(a) Hot water at a temperature not less than 180° F. shall be available for sanitation purposes.

(b) Hose connections with steam and water mixing valves or hot water hose connections shall be provided at convenient locations throughout the plant for cleaning purposes.

(c) The refuse rooms shall be provided with adequate facilities for washing refuse cans and other equipment in the rooms; and the rooms, cans, and equipment shall be cleaned after each day's use.

§ 54.225 *Lavatory accommodations.* Modern lavatory accommodations, and properly located facilities for cleaning utensils and hands shall be provided.

(a) Adequate lavatory and toilet accommodations, including, but not being limited to, running hot water and cold water, soap, and towels, shall be provided. Such accommodations shall be in or near toilet and locker rooms and also at such other places in the plant as may be essential to the cleanliness of all personnel handling products.

(b) Sufficient metal containers shall be provided for used towels and other wastes.

(c) The water supply in all hand washing facilities serving areas where edible products are prepared shall be operated by other than hand operated controls or shall be of a continuous-flow type.

(d) Durable signs shall be posted conspicuously in each toilet room and locker room directing employees to wash their hands before returning to work.

(e) Toilet facilities shall be provided according to the following formula.

• Toilet bowls
required

Persons of same sex:	
1 to 15, inclusive	1
16 to 35, inclusive	2
36 to 55, inclusive	3
56 to 80, inclusive	4
For each additional 30 persons in excess of 80	1

*Urinals may be substituted for toilet bowls but only to the extent of $\frac{1}{3}$ of the total number of bowls stated.

§ 54.226 *Lighting and ventilation.* There shall be ample light, either natural or artificial or both, of good quality and well distributed, and sufficient ventilation for all rooms and compartments to insure sanitary conditions.

(a) All rooms in which domestic rabbits are killed, eviscerated, or otherwise processed shall have at least 10 foot candles of light intensity on all working surfaces except that at the grading and inspection stations such light intensity shall be 50 foot candles. In all other rooms there shall be provided at least 4 foot candles of light intensity when measured at a distance of 30 inches from the floor.

(b) All rooms shall be adequately ventilated to eliminate objectionable odors and minimize moisture condensation.

Equipment and Utensils

§ 54.230 *Equipment and utensils.* Equipment and utensils used for the preparation, processing, or otherwise handling any product in the plant shall be suitable for the purpose intended and shall be of such material and construction as will facilitate their thorough cleaning and insure cleanliness in the preparation and handling of products.

(a) Live rabbit holding pens shall be so constructed as to allow satisfactory ante-mortem examination and to permit proper cleaning.

(b) Metal refuse containers shall be provided; and such containers shall be kept covered.

(c) Insofar as it is practical, equipment and utensils shall be made of metal or other impervious material. Trucks and receptacles used for handling inedible products shall be of similar construction and shall be conspicuously and distinctly marked and shall not be used for handling any edible products.

(d) Chilling vats. Chilling vats or tanks used for chilling ready-to-cook domestic rabbits shall be made of metal or other hard-surfaced impervious material.

(e) Grading and packing bins. Where grading bins are used for ready-to-cook domestic rabbits they shall be of sufficient number and capacity to handle the grading adequately without the use of makeshift bins and all ready-to-cook domestic rabbits shall be kept off the floor. Grading bins may be made of metal or enameled wood and shall be constructed and maintained in such a manner as to allow easy and thorough

cleaning. All replacements of such bins shall, however, be of metal.

(f) Except as otherwise provided herein, all equipment and utensils used in the killing, skinning, and the eviscerating, chilling, and packing rooms shall be of metal or other impervious material and constructed so as to permit proper and complete cleaning.

(g) Conveyors. (1) Conveyors used in the preparation of ready-to-cook domestic rabbits shall be of metal or other acceptable material and of such construction as to permit thorough and ready cleaning and easy identification of viscera with its carcass.

(2) Overhead conveyors shall be so constructed and maintained that they do not allow grease, oil, or dirt to accumulate on the drop chain or shackle, which shall be of noncorrosive metal.

(3) Non-metallic belt-type conveyors used in moving edible products shall be of water-proof composition.

(h) Inspection, eviscerating, and cutting tables shall be made of metal and have coved corners and be so constructed and placed to permit thorough cleaning.

(i) In plants where no conveyors are used, each carcass shall be eviscerated in an individual metal tray of seamless construction.

(j) Water spray washing equipment shall be used for washing carcasses inside and out.

(k) Watertight metal receptacles shall be used for entrails and other waste resulting from preparation of ready-to-cook domestic rabbits.

(l) Watertight trucks and receptacles for holding or handling diseased carcasses and diseased parts of carcasses shall be so constructed as to be readily and thoroughly cleaned; such trucks and receptacles shall be marked in a conspicuous manner with the word "condemned" in letters not less than 2 inches high and, when required by the inspector in charge, shall be equipped with facilities for locking and sealing.

(m) Freezing rooms should be adequately equipped to freeze ready-to-cook domestic rabbits solid in less than 48 hours. Ready-to-cook domestic rabbits should be frozen at temperatures of -10° F to -40° F and should be stored at 0° F or below, with the temperature maintained as constant as possible. Freezing rooms should be equipped with floor racks or pallets and fans to insure air circulation.

(n) Cooling racks should be made of metal and be readily accessible for thorough washing and cleaning. All replacements of cooling racks shall be made of metal.

(o) Trucks and receptacles in which carcasses or parts thereof are held for further inspection shall be in such number and such location as the needs of the inspection in the plant may require. They shall be equipped for locking by means of lock and key and the key shall not leave the custody of the inspector in charge of the plant. Such trucks and receptacles shall be marked conspicuously with the word "retained" in letters not less than 2 inches high.

§ 54.231 *Accessibility.* All equipment shall be so placed as to be readily accessi-

ble for all processing and cleaning operations.

§ 54.232 *Restrictions on use.* Equipment and utensils used in the official plant shall not be used outside the official plant except under such conditions as may be prescribed or approved by the national supervisor, and equipment used in the preparation of any article (including, but not being limited to, animal food) from inedible material shall not be used outside of the inedible products department except under such conditions as may be prescribed or approved by the national supervisor.

Maintenance of Sanitary Conditions and Precautions Against Contamination of Products

§ 54.240 *General.* The premises shall be kept free from refuse, waste materials, and all other sources of objectionable odors and conditions.

§ 54.241 *Cleaning of rooms and compartments.* Rooms, compartments, or other parts of the official plant shall be kept clean and in sanitary condition.

(a) All blood, offal, rabbits or parts of rabbits too severely damaged to be salvaged and all discarded containers and other materials shall be completely disposed of daily.

(b) All windows, doors, and light fixtures in the official plant shall be kept clean.

(c) All docks and rooms shall be kept clean and free from debris and unused equipment and utensils.

(d) Live rabbit receiving docks and receiving rooms shall be of such construction as readily to permit their thorough cleaning; and such docks and rooms should be kept clean at all times.

(e) Floors in live rabbit holding rooms shall be cleaned with such regularity as may be necessary to maintain them in a sanitary condition.

(f) The killing and skinning room shall be kept clean and free from offensive odors at all times.

(g) The walls, floors, and all equipment and utensils used in the killing and skinning room shall be thoroughly washed and cleaned after each day's operation.

(h) The floors in the killing and skinning room shall be cleaned frequently during killing and skinning operations and be kept reasonably free from accumulated blood, offal, water and dirt.

(i) All equipment in the toilet room and locker room, as well as the room itself, shall be kept clean, sanitary, and in good repair.

(j) Cooler and freezer rooms shall be free from objectionable odors of any kind and shall be maintained in a sanitary condition (including, but not being limited to, the prevention of drippings from refrigerating coils onto products)

§ 54.242 *Cleaning of equipment and utensils.* Equipment and utensils used for preparing or otherwise handling any product shall be kept clean and in a sanitary condition and in good repair.

(a) Pens shall be cleaned regularly and the manure removed from the plant daily.

(b) All equipment and utensils used in the killing and skinning rooms shall be thoroughly washed and cleaned after each day's operation. The eviscerating, chilling, and packing room and equipment and utensils used therein shall be maintained in a clean and sanitary condition.

(c) Graders' and packers' gloves and grading bins shall be washed daily and used only for grading or packing, as the case may be.

(d) All crates or pens used for transporting live domestic rabbits to the plant shall be cleaned regularly.

(e) Chilling vats or tanks, if practicable, shall be emptied after each use. They shall be thoroughly cleaned once daily, and after each cleaning operation they shall be sanitized with such compounds or by such methods as may be approved or prescribed by the Administrator.

(f) When synchronized overhead conveyors and tray conveyors are used, the trays shall be completely washed and sanitized after being automatically emptied of inedible viscera.

(g) When a conveyor tray operation is used, each carcass shall be eviscerated in an individual metal tray of seamless construction; and such trays shall be completely washed and sanitized after each use.

(h) Tables, shelves, bins, trays, pans, knives, and all other tools and equipment used in the preparation of ready-to-cook domestic rabbits shall be kept clean and sanitary at all times. Cleaned equipment and utensils shall be drained on racks and shall not be nested.

(i) Drums, cans, tanks, vats, and other receptacles used to hold or transport ready-to-cook domestic rabbits shall be kept in a clean and sanitary condition.

§ 54.243 Operations and procedures. Operations and procedures involving the preparation, storing, or handling of any product shall be strictly in accord with clean and sanitary methods.

(a) There shall be no handling or storing of materials which create an objectionable condition in rooms, compartments, or other places in the plant where any product is prepared, stored, or otherwise handled.

(b) Blood from the killing operation shall be confined to a relatively small area and kept from being splashed about the room.

(c) In the final washing, the carcass shall be passed through a system of sprays providing an abundant supply of fresh clean water.

(d) The floors in the eviscerating room shall be kept clean and reasonably dry during eviscerating operations and free of all refuse.

(e) Conveyors shall be operated at such speeds as will permit a sanitary eviscerating operation and will permit adequate inspection for condition and wholesomeness.

(f) Mechanized packaging equipment shall be maintained in good sanitary condition.

(g) All offal resulting from the eviscerating operation shall be removed as often as necessary to prevent the development of a nuisance.

(h) Paper and other material used for lining containers in which products are packaged shall be of such kinds as do not tear readily during use, but remain intact when moistened by the product.

(i) Protective coverings shall be used for the product in the plant and as it is distributed from the plant, as will afford adequate protection for the product against contamination by any foreign substance (including, but not being limited to, dust, dirt, and insects) considering the means intended to be employed in transporting the product from the plant.

(j) Refuse may be moved directly to loading docks only for prompt removal.

(k) Cleanliness and hygiene of personnel. (1) All employees coming in contact with exposed edible products or edible products handling equipment shall wear clean garments and should wear caps or hair nets, and shall keep their hands clean at all times while thus engaged.

(2) Hands of employees handling edible products or edible products handling equipment shall be free of infected cuts, boils, and open sores at all times while thus engaged.

(3) Every person after each use of toilet or change of garments shall wash his hands thoroughly before returning to duties that require the handling of edible products, or containers therefor, or edible products handling equipment.

(4) Neither smoking nor chewing of tobacco shall be permitted in any room where exposed edible products are prepared, processed, or otherwise handled.

§ 54.244 Temperatures and cooling and freezing procedures. Temperatures and procedures which are necessary for cooling and freezing of domestic rabbits in accordance with sound commercial practice shall be maintained in the coolers and freezers, and chilling temperatures and procedures shall also be in accordance with sound commercial practice.

(a) **Cooling.** Immediately after evisceration and washing of the carcass, it shall be placed in a cooling tank containing running cold tap water to remove the animal heat from the carcass. Carcasses shall not be allowed to remain in the cooling tank for longer than one hour.

(b) **Air chilling.** Immediately after the initial water chilling, the carcasses shall be placed in cooling racks and thereupon placed in a refrigerated cooler with moderate air movements and a temperature which will reduce the internal temperature of the carcasses to from 36° F. to 40° F., both inclusive, within 24 hours.

(c) **Freezing.** (1) When ready-to-cook domestic rabbits are packaged in bulk or shipping containers, the carcasses should be individually wrapped or packaged in water-vapor resistant cartons or the containers should be lined with heavy water-vapor resistant paper so as to assure adequate overlapping of the lining to completely surround the carcasses and to permit unsealed closure or sealing in such a manner that water-vapor loss from the product is considerably retarded or prevented. The rabbit

carcasses should receive an initial rapid freezing under such packaging, temperature, air circulation, and stacking conditions which will result in freezing the carcasses solid in less than 48 hours.

(2) Frozen ready-to-cook rabbits should be stored at 0° F., or below, with temperatures maintained as constant as possible.

(d) **Refrigeration.** Immediately after packaging, all ready-to-cook domestic rabbits, other than those which are shipped from the plant in a refrigerated carrier, should be moved into the freezer, except that a period not exceeding 72 hours will be permitted for transportation and temporary holding before placing in the freezer provided such rabbits are held at not above 36° F.

§ 54.245 Vermin. Every practicable precaution shall be taken to exclude flies, rats, mice, and other vermin from the official plant. Dogs, cats, and other pets shall be excluded from rooms where edible products are processed, handled, or stored.

§ 54.246 Exclusion of diseased persons. No person affected with any communicable disease (including, but not being limited to, tuberculosis) in a transmissible stage shall be permitted in any room or compartment where exposed or unpacked edible products are prepared, processed, or otherwise handled.

§ 54.247 Table showing types of materials.

Equipment, utensils, and facilities	Iron	Stainless steel and monel metal	Aluminum	Galvanized iron
Holding pens.....	A	A	A	A
Overhead conveyors.....	A	A	A	A
Conveyor tracks.....	A	A	A	A
Shackles.....	A	A	A	A
Shackle chain.....	A	A	A	A
Eviscerating pans.....	A	A	A	A
Inspection table.....	A	A	A	A
Inside and outside wacker.....	A	A	A	A
Cooling tanks and racks.....	A	A	A	A
Utensils for handling edible products.....	A	A	A	A
Framework (of equipment).....	A	A	A	A

Key: A—Acceptable.

SUBPART B—UNITED STATES STANDARDS FOR DOMESTIC RABBITS AND EDIBLE PRODUCTS THEREOF

U. S. SPECIFICATIONS FOR CLASSES OF READY-TO-COOK DOMESTIC RABBITS

§ 54.260 General. For the purpose of §§ 54.260 to 54.262, the classes of ready-to-cook domestic rabbits are fryer rabbits and roaster rabbits. The flesh of a fryer domestic rabbit is tender and fine-grained, and of a bright pearly white color. The flesh of a roaster domestic rabbit is more firm and coarse-grained; the muscle fiber is slightly darker in color and less tender than that of a fryer domestic rabbit; and the fat may be more creamy in color than that of a fryer domestic rabbit.

§ 54.261 Fryer. A fryer is a young domestic rabbit carcass weighing not less than 1½ pounds and rarely more than

RULES AND REGULATIONS

3½ pounds; and processed from a rabbit usually less than 12 weeks of age.

§ 54.262 *Roaster* A roaster is a mature or old domestic rabbit carcass of any weight but usually over 4 pounds; and processed from a rabbit over 12 weeks of age, usually 8 months old or older.

U. S. SPECIFICATIONS FOR STANDARDS OF QUALITY FOR INDIVIDUAL READY-TO-COOK DOMESTIC RABBITS

§ 54.270 *General*. Carcasses found to be unsound, unwholesome, or unfit for food shall not be included in any of the quality designations specified in §§ 54.275 to 54.277.

Standards of Quality

§ 54.275 *A Quality*. To be of A Quality the carcass:

(a) Is short, thick, well-rounded, and full-fleshed.

(b) Has a broad back, broad hips, and broad, deep fleshed shoulders, and firm muscle texture.

(c) Has well-developed strips of fat extending from the neck part-way down the back, and some, exterior fat well distributed over loins, shoulders, and back, and a plentiful amount of interior fat in the crotch and over the inner walls of the carcass, the kidneys being practically surrounded by thick layers of firm white fat.

(d) Shows no evidence of coagulated blood in the veins and is free from any evidence of reddening of the flesh due to blood in the connective tissues.

(e) Is free from all foreign material (including, but not being limited to, hair, dirt, and bone particles) and from crushed bones caused by removing the head or the feet.

(f) Is free from broken bones, flesh bruises, defects, and deformities. Ends of leg bones may be broken due to removing the feet.

§ 54.276 *B Quality*. To be of B Quality the carcass:

(a) Is short, thick, fairly well-rounded and fairly well-fleshed.

(b) Has a fairly broad back, fairly broad hips, and fairly broad and deep-fleshed shoulders, and fairly firm muscle texture.

(c) Has fairly well developed strips of fat extending from the neck part-way down the back and some evidence of fat fairly well distributed over loins and shoulders; has interior fat that is fairly plentiful in the crotch and over the inner walls of the carcass; and has a considerable quantity of interior fat around the kidneys.

(d) Shows no evidence of coagulated blood in the veins and is free from any evidence of reddening of the flesh due to blood in the connective tissues.

(e) Is free from all foreign material (including, but not being limited to, hair, dirt, and bone particles) and from crushed bones caused by removing the head or the feet.

(f) Is free from broken bones and practically free from bruises, defects,

and deformities. Ends of leg bones may be broken due to removing the feet.

§ 54.277 *C Quality*. A carcass that does not meet the requirements of B Quality may be of C Quality and such carcass:

(a) May be long, rangy, and fairly well fleshed.

(b) May have thin, narrow back and hips, and soft flabby muscle texture.

(c) May show very little evidence of exterior fat.

(d) May show very slight evidence of reddening of the flesh due to blood in the connective tissues.

(e) Is free from all foreign material (including, but not being limited to, hair, dirt, and bone particles) and from crushed bones caused by removing the head or feet.

(f) May have moderate bruises of the flesh, moderate defects, and moderate deformities; have not more than one broken bone; and may have a small portion of the carcass removed because of serious bruises.

[F. R. Doc. 53-9254; Filed, Nov. 2, 1953; 8:48 a. m.]

PART 55—SAMPLING, GRADING, GRADE LABELING, AND SUPERVISION OF PACKAGING OF EGGS AND EGG PRODUCTS

RECODIFICATION

By virtue of the authority (18 F. R. 4839) vested in me by the Secretary of Agriculture and in accordance with the revised Federal Register regulations, the format of the regulations (7 CFR Part 55) governing the sampling, grading, grade labeling, and supervision of packaging of eggs and egg products, which are currently operative pursuant to the applicable provisions of the Department of Agriculture Appropriation Act, 1954 (Pub. Law 156, 83d Cong., approved July 28, 1953) is recodified as herein-after set forth.

The recasting of the format due to such recodification is not intended, nor shall it be deemed, to make any substantive change in the regulations. The designation "Subpart A—Regulations" is added to cover §§ 55.1 to 55.61 (16 F. R. 10193; 18 F. R. 1463) and the center heading preceding § 55.102 (17 F. R. 2805) is changed to "Subpart B—Forms and Instructions," and the provisions of § 55.102 are recodified as §§ 55.100 to 55.115.

Since the services and programs provided by the regulations are currently in effect, the regulations as presented in recodified form shall become effective upon publication in the FEDERAL REGISTER so as to avoid any interruption to the continuity of the services and programs.

The recodification is set forth below.

Issued at Washington, D. C., this 29th day of October 1953.

[SEAL] ROY W. LENNARTSON,
Assistant Administrator,
Production and Marketing Administration.

SUBPART B—FORMS AND INSTRUCTIONS

INSTRUCTIONS GOVERNING PLANTS OPERATING AS OFFICIAL PLANTS PROCESSING AND PACKAGING EGG PRODUCTS

Sec.

- 55.100 Definitions.
- 55.101 Plant surveys.
- 55.102 Suspension of plant approval.
- 55.103 Raw materials.
- 55.104 Premises and plant.
- 55.105 Equipment and utensils.
- 55.106 Operations and operating procedures.
- 55.107 Sorting shell eggs.
- 55.108 Breaking shell eggs.
- 55.109 Drying.
- 55.110 Packages.
- 55.111 Final inspection of egg products.
- 55.112 Personnel; health.
- 55.113 Facilities to be furnished by official plant.
- 55.114 Authority and duties of inspectors.
- 55.115 Official identification.

AUTHORITY: §§ 55.100 to 55.115 issued under sec. 205, 60 Stat. 1090, Pub. Law 156, 83d Cong., 7 U. S. C. 1624.

SUBPART B—FORMS AND INSTRUCTIONS

INSTRUCTIONS GOVERNING PLANTS OPERATING AS OFFICIAL PLANTS PROCESSING AND PACKAGING EGG PRODUCTS

§ 55.100 *Definitions*. (a) "Egg products" means each of the following products prepared from shell eggs with or without the addition of any other edible substance or ingredient: Liquid eggs; frozen eggs; dried eggs; liquid, frozen, or dried egg whites; and liquid, frozen, or dried egg yolks.

(b) "Eggs of current production" means shell eggs which have moved through usual marketing channels since the time they were laid, and have not been held in refrigerated storage in excess of 60 days.

(c) "Regional supervisor" means any employee of the Department in charge of poultry grading service in a designated geographical area.

(d) "Regulations in this part" means the regulations governing the sampling, grading, grade labeling, and supervision of packaging of eggs and egg products (§§ 55.1 to 55.61).

(e) "Sanitize" means to subject to an acceptable germicidal agent.

(f) "Shell eggs" means shell eggs of domesticated chickens.

(g) All other terms which are used herein shall have the meaning applicable to such terms when used in the regulations in this part.

§ 55.101 *Plant surveys*—(a) *Initial survey*. When an application for continuous inspection in a plant has been filed, the regional supervisor or his assistant serving the area in which the plant is located will make a survey and inspection of the premises and plant to determine whether the facilities and methods of operation therein are suitable and adequate for service in accordance with (1) the regulations in this part, (2) the instructions and requirements contained in this section, and (3) such further instructions and requirements based upon the aforesaid instructions which may hereafter be issued with respect to minimum requirements for facilities, operating procedures, and sanitation in egg breaking and egg dry-

ing plants and which are in effect at the time of the aforesaid survey and inspection.

(b) *Drawings and specifications to be furnished.* Four copies of drawings properly drawn to scale shall be submitted to the regional supervisor. The drawings shall consist of floor plans of space to be included in the official plant, the locations of such features as the principal pieces of equipment, floor drains, hand washing facilities, hose connections for clean-up purposes, and the cardinal points of the compass.

(1) The official plant shall include the breaking room, equipment washing and sanitizing rooms, shell egg washing room, shell egg storage rooms, toilet and dressing rooms, store rooms for supplies used in the operation under this service, and all other rooms, compartments, or passageways where products or any ingredients to be used in the preparation of products under this service will be handled or kept and may include other rooms located in the buildings comprising the official plant.

(2) If rooms shown on the drawings are not to be included as part of the official plant, this should be clearly indicated thereon.

(3) Specifications covering the height of ceilings, types of principal pieces of equipment, character of walls, floors, and ceilings, lighting, ventilation including intake and exhaust facilities, water supply and drainage, and such other notations as may be required shall accompany the drawings. Upon approval of the drawings and specifications the application for service may be approved.

(c) *Final survey and plant approval.* Prior to the inauguration of continuous inspection service, a final survey of the plant and premises shall be made by the regional supervisor or his assistant to determine if the plant is constructed and facilities are installed in accordance with the approved drawings and the regulations in this part. The plant may be approved only when these requirements have been met.

§ 55.102 *Suspension of plant approval.*

(a) Any plant approval pursuant to the regulations in this part may be suspended for (1) failure to maintain plant and equipment in a satisfactory state of repair; (2) the use of operating procedures which are not in accordance with the regulations and instructions set forth in this part; or (3) alterations of buildings, facilities or equipment which cannot be approved in accordance with the aforesaid regulations and instructions.

(b) During such period of suspension, inspection service shall not be rendered. However, the other provisions of the contract for service shall remain in effect unless terminated in accordance with the terms thereof. If the plant facilities or methods of operation are not brought into compliance within a reasonable period of time to be specified by the Administrator, the contract shall be terminated. Upon termination of any contract providing for inspection service in an official plant pursuant to the regulations in this part, the plant approval shall also become terminated, and all labels, seals, tags or packaging material

bearing official identification shall, under the supervision of a person designated by the Administration, either be destroyed, or the official identification completely obliterated, or sealed in a manner acceptable to the Administration.

§ 55.103 *Raw materials.* (a) Egg products which are to bear the inspection mark shall be processed in an official plant from edible shell eggs of current production and may contain other edible ingredients. The following categories of edible shell eggs and egg products may be used to prepare egg products which are to bear the inspection mark: (1) Clean shell eggs; (2) stained shell eggs; (3) shell eggs with adhering dirt on the shells: *Provided*, That prior to processing, such eggs are properly cleaned or washed and dried in such a manner as will avoid contamination of the egg meat; (4) shell eggs containing blood spots (localized clots of blood which can be readily removed), *provided* such spots are removed; and (5) other egg products which were processed in an official plant and which bear the inspection mark.

(b) Egg products may be produced in an official plant from edible shell eggs other than of current production and edible shell eggs which are (1) leakers; (2) checks with adhering dirt; and (3) shell eggs containing blood spots (localized clots of blood which can be readily removed) *provided* such spots are removed. None of such egg products shall, however, be identified with the inspection mark, but may bear an official identification of the design and wording set forth in § 55.115 (b) *Provided*, That after freezing but prior to shipping such egg products are drilled and inspected organoleptically and found to be in satisfactory condition by a grader of frozen eggs.

(c) Edible turkey, guinea, duck, and goose eggs may be processed in the official plant if such eggs are processed separately and properly labeled. The resultant egg products may be officially identified.

(d) Eggs containing diffused blood in the albumen or on the yolk shall not be used and such eggs shall be denatured.

(e) Shell eggs or egg products which are not fit for human food shall be placed in a conspicuously marked container which contains a denaturant of such character as will prevent such products from being used as human food or in the case of shell eggs they shall be treated in such manner as will preclude their use as human food.

§ 55.104 *Premises and plant—(a) Building.* The building, or portion thereof, in which any egg processing operation is conducted, shall be maintained in a sanitary condition, including, but not being limited to, the following requirements:

(1) There shall be abundant light (whether natural or artificial, or both) which is well distributed, and sufficient ventilation for each room and compartment to insure sanitary and suitable processing and operating conditions.

(2) There shall be an efficient drainage and plumbing system for the plant and premises. All drains and gutters

shall be properly installed with approved traps and vents, and shall be maintained in good repair and in proper working order.

(3) The water supply (both hot and cold) shall be ample, clean, and potable, with adequate facilities for its distribution throughout the plant, or portion thereof utilized for egg processing and handling operations, and for protection against contamination and pollution.

(4) The floors, walls, ceilings, partitions, posts, doors, and other parts of all structures shall be of such materials, construction, and finish to permit their ready and thorough cleaning. The floors and curbing shall be watertight.

(5) Each room and each compartment in which any shell eggs or egg products are handled or processed shall be so designed and constructed as to insure processing and operating conditions of a clean and orderly character, free from objectionable odors and vapors, and maintained in a clean and sanitary condition.

(6) Every practicable precaution shall be taken to exclude dogs, cats, and vermin (including, but not being limited to, rodents and insects) from the plant, or portion thereof utilized, as aforesaid, in which shell eggs or egg products are handled or stored. The use of poisons for any purpose in any room or compartment where any shell eggs or egg products are stored or handled is forbidden, except under such restrictions and precautions as the Chief, or Acting Chief, of the Poultry Inspection and Grading Division of the Administration may prescribe.

(b) *Facilities.* Each plant shall be equipped with adequate sanitary facilities and accommodations, including, but not being limited to, the following:

(1) There shall be a sufficient number of adequately lighted dressing rooms and toilet rooms, ample in size, conveniently located, and separated from the rooms and compartments in which shell eggs or egg products are handled, processed, or stored. The dressing rooms and toilet rooms shall be separately ventilated, and shall meet all requirements as to sanitary construction and equipment.

(2) Lavatory accommodations (including, but not being limited to, hot and cold running water, soap, and towels) shall be placed at such locations in the plant as may be essential to assure cleanliness of each person handling any shell eggs or egg products.

(3) Clean outer garments shall be worn by all persons who are in any room or compartment where any breaking, drying, or packaging operation is conducted.

(4) No product or material which creates an objectionable condition shall be processed, stored, or handled in any room, compartment, or place where any shell eggs or egg products are processed, stored, or handled.

(5) Suitable facilities for cleaning and sanitizing utensils and equipment shall be provided at convenient locations throughout the plant.

§ 55.105 *Equipment and utensils.* Equipment used for candling, breaking, straining, clarifying, packaging, hold-

ing, drying, storing, or otherwise processing any shell eggs or egg products shall be of such design, material, and construction as will (a) enable the examination, segregation, or other processing of such eggs or egg products in an efficient, clean, and satisfactory manner, and (b) permit easy access to all parts to insure thorough cleaning and sanitizing. So far as is practicable, all such equipment shall be made of metal or other impervious material, if the metal or other material will not affect the product by chemical action or physical contact. Receptacles and packages used for shell eggs or egg products which are not fit for human food shall bear some conspicuous and distinctive identification.

§ 55.106 *Operations and operating procedures.* (a) All operations involving processing, storing, and handling of shell eggs and egg products shall be strictly in accord with clean and sanitary methods, and shall be conducted as rapidly as is practicable and, except as necessary in preparing egg products by the fermentation process, at temperatures that will tend to cause no material increase in bacterial growth, or no deterioration or break-down of the original quality of the egg meat.

(b) All shell eggs and egg products shall be subjected to constant and continuous inspection throughout each and every processing operation. Any shell egg or egg product which was not processed in accordance with the instructions contained in §§ 55.100 to 55.115 or is not fit for human food shall be removed and segregated prior to any further processing operation in connection with the production of egg products to be identified by official identification.

(c) All utensils and equipment which are contaminated during the course of processing any shell eggs or egg products shall be removed from use immediately and shall not be used again until cleaned and sanitized.

(d) Any substance or ingredient added in the processing of any egg products shall be clean and fit for human food.

§ 55.107 *Sorting shell eggs.* (a) Shell eggs shall be adequately sorted prior to delivery to the breaking room so as to comply with the requirements of § 55.103 applicable to raw material.

(b) Shell eggs shall be sorted in such manner as to avoid breakage or contamination. When shell eggs are candled, they shall be so handled as to avoid breakage and contamination.

§ 55.108 *Breaking shell eggs.* (a) Each shell egg must be broken in a satisfactory and sanitary manner and inspected for wholesomeness by smelling the shell or the egg meat, and by visual examination at the time of breaking. Egg meat fit for human food shall be placed in proper containers and subsequently examined by an inspector. Egg meat which is not fit for human food shall be placed in containers provided for the purpose bearing some conspicuous and distinctive identification; and such containers shall contain a denaturant suitable for decharacterizing the product to prevent its use for human food.

(b) Egg meat which is examined and passed by an inspector shall be processed in such manner as to insure the removal of meat spots, shell particles, and foreign materials.

(c) Each person who is to handle any exposed or unpacked egg products shall wash his hands immediately prior to handling any such products or any utensils which contain, or are to contain, such products and shall maintain clean hands while handling any exposed or unpacked egg products.

(d) Whenever any breaker breaks a shell egg which is not fit for human food he shall not use any utensil which is contaminated by such shell egg. Each such contaminated utensil shall be exchanged for a clean one, and the breaker shall wash his hands immediately prior to receiving the clean utensil.

(e) In addition to the other requirements contained in this section, all utensils and equipment shall be clean and sanitary at the start of each day's processing operations and at the resumption of processing operations following any cessation of such operations for 30 minutes or longer.

§ 55.109 *Drying.* All pumps, liquid egg lines, drying equipment, and dried egg conveyors shall be operated and maintained in a sanitary manner. All dried egg powder shall be sifted, but not forced, through a screen so as to remove all foreign materials and all lumpy particles of dried eggs. No egg product which is to be identified with official identification shall have incorporated therein any screenings collected from any screening operation, any badly scorched powder, or any dusthouse powder.

§ 55.110 *Packages.* Packages or containers for egg products shall be clean when being filled with any egg products; and all reasonable precautions shall be taken to avoid soiling or contaminating the surface of any package or container liner which is, or will be, in direct contact with such egg products.

§ 55.111 *Final inspection of egg products.* All egg products shall, at the completion of the processing operation, be inspected by an inspector to ascertain the condition of the finished product.

§ 55.112 *Personnel; health.* (a) No person affected with any communicable disease (including, but not being limited to, tuberculosis) in a transmissible stage shall be permitted in any room or compartment where exposed or unpacked egg products are prepared, processed, or otherwise handled.

(b) Spitting or smoking is prohibited in each room and in each compartment where any exposed or unpacked egg products are prepared, processed, or otherwise handled.

(c) All necessary precautions shall be taken to prevent the contamination of egg products with any foreign substance (including, but not being limited to, perspiration, hair, cosmetics, and medications)

§ 55.113 *Facilities to be furnished by official plant.* (a) Facilities for the

proper sampling, weighing, and examination of shell eggs and egg products shall be furnished by the official plant for use by inspectors and frozen egg graders.

(b) A locker or desk (equipped with a satisfactory locking device), in which labels with official identification, marking devices, samples, certificates, seals, and reports of inspectors will be kept, shall be furnished by the official plant for use by inspectors.

§ 55.114 *Authority and duties of inspectors.* (a) Each inspector is authorized:

(1) To make such observations and inspections as he deems necessary to enable him to certify that egg products have been prepared, processed, stored, and otherwise handled in conformity with the regulations in this part and the instructions contained in this section;

(2) To supervise the marking of packages containing egg products which are eligible to be identified with official identification;

(3) To retain in his custody, or under his supervision, labels with official identification, marking devices, samples, certificates, seals, and reports of inspectors;

(4) To deface or remove, or cause to be defaced or removed under his personal supervision, any official identification from any package containing egg products whenever he determines that such products were not processed in accordance with the instructions contained in this section or are not fit for human food; and

(5) To issue a certificate covering all products processed in the official plant.

(b) Each inspector shall prepare such reports and records as may be prescribed by the Chief or Acting Chief of the Poultry Inspection and Grading Division, of the Administration, which shall contain, in addition to all other required data, a daily record of:

(1) The sanitary condition of the official plant and all processing operations therein in connection with the production of egg products;

(2) All processing, holding, and storing temperatures;

(3) The selection of all raw material used in the production of egg products;

(4) The handling and condition of the finished egg products;

(5) The total quantity of egg products identified with the inspection mark;

(6) The total quantity of egg products officially identified in accordance with § 55.115 (b), and

(7) The total quantity of egg products not fit for human food.

§ 55.115 *Official identification—(a) Inspection mark.* The inspection mark which is permitted to be used on egg products, other than those prepared in accordance with § 55.103 (b), shall be contained within the outline of a shield of the wording and design set forth in Figure 1 of paragraph (b) of this section.

(b) *Other identification.* Egg products prepared in accordance with § 55.103 (b) may be identified with an official identification of the wording and design set forth in Figure 2 of this paragraph.



FIGURE 1.

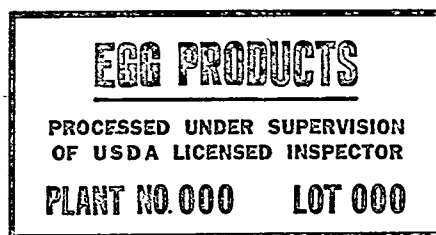


FIGURE 2

(c) *Products not eligible for official identification.* Egg products which were prepared in nonofficial plants shall not be officially identified, but such products may be inspected organoleptically and covering certificates issued setting forth the results of the inspection.

(d) *Use of presently approved labels.* Containers or labels which bear an official identification which was approved prior to the effective date of the instructions under this section may be used until the supply now on hand is exhausted.

[F. R. Doc. 53-9253; Filed, Nov. 2, 1953; 8:48 a. m.]

PART 70—GRADING AND INSPECTION OF POULTRY AND EDIBLE PRODUCTS THEREOF; AND UNITED STATES CLASSES, STANDARDS, AND GRADES WITH RESPECT THERETO

RECODIFICATION

By virtue of the authority (18 F. R. 4839) vested in me by the Secretary of Agriculture and in accordance with the revised Federal Register regulations, the format of the regulations (7 CFR Part 70) governing the grading and inspection of poultry and edible products thereof, and United States classes, standards, and grades with respect thereto, which are currently operative pursuant to the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U. S. C. 1621 et seq.) and the Department of Agriculture Appropriation Act, 1954 (Pub. Law 156, 83d Cong., approved July 28, 1953) is recodified as herein-after set forth.

The recasting of the format due to such recodification is not intended, nor shall it be deemed, to make any substantive change in the regulations. However, several editorial changes have been

No. 215—3

made in the provisions of some of the sections as they existed prior to this recodification (i. e., §§ 70.11, 70.33, and 70.201) and which, by their own terms, have been inapplicable since June 30, 1953. In addition, conforming changes have been made in the designations (as listed in Table II—Turkeys, of § 70.105 (c) prior to this recodification) of some of the classes of turkeys in view of the amendment (17 F. R. 3631) of April 24, 1952, prescribing new class designations. The recodified sections that are affected by the editorial changes are §§ 70.91, 70.182, and 70.381. The recodified section affected by the conforming change is § 70.370.

Since the services and programs provided by the regulations are currently in effect, the regulations as presented in recodified form shall become effective upon publication in the FEDERAL REGISTER so as to avoid any interruption to the continuity of such services and programs. The recodification is set forth below.

Issued at Washington, D. C., this 29th day of October 1953.

[SEAL] ROY W. LENHARTSON,
Assistant Administrator Pro-
duction and Marketing Ad-
ministration.

SUBPART A—GRADING AND INSPECTION OF POULTRY AND EDIBLE PRODUCTS THEREOF

GENERAL

- 70.1 Definitions.
- 70.2 Administration.
- 70.3 Grading and inspection services available.

BASIS OF SERVICE

- 70.10 Inspection service.
- 70.11 Grading service.
- 70.12 Continuous grading service.
- 70.13 Supervision.
- 70.14 Dressed poultry; eligibility.
- 70.15 Inspection in official plants; extent required.
- 70.16 Certification of dressed poultry produced under sanitary requirements.
- 70.17 Examination of ready-to-cook poultry which was not processed in official plants.
- 70.18 Authority to waive provisions of §§ 70.14 and 70.15.

PERFORMANCE OF SERVICES

- 70.30 Licensed graders and inspectors.
- 70.31 Suspension of license or authority; revocation.
- 70.32 Surrender of license.
- 70.33 Identification.
- 70.34 Financial interest of inspectors and graders.
- 70.35 Political activity.

APPLICATION FOR GRADING SERVICE OR INSPECTION SERVICE

- 70.40 Who may obtain grading service or inspection service.
- 70.41 How application may be made.
- 70.42 Filing of application.
- 70.43 Authority of applicant.
- 70.44 Application for inspection service or grading service in official plants; approval.
- 70.45 Rejection of application.
- 70.46 Withdrawal of application.
- 70.47 Order of service.
- 70.48 Suspension of plant approval.

VIOLATIONS

- 70.60 Denial of service.
- 70.61 Misrepresentation, deceptive, or fraudulent acts or practices.

- Sec. 70.62 Use of facsimile forms.
- 70.63 Willful violation of the regulations.
- 70.64 Interfering with a grader or inspector.
- 70.65 Misleading labeling.
- 70.66 Miscellaneous.

OTHER APPLICABLE REGULATIONS

- 70.80 Other applicable regulations.

PUBLICATIONS

- 70.85 Publications.

IDENTIFYING AND MARKING PRODUCTS

- 70.90 Approval of official identification.
- 70.91 Products that may be individually grade marked; information required, on grade mark.
- 70.92 Use of grade mark and inspection mark with respect to the same product.
- 70.93 Marking inspected products.
- 70.94 Marking dressed poultry which was certified as having been produced under sanitary requirements.

SUPERVISION OF MARKING AND PACKAGING

- 70.100 Evidence of label approval.
- 70.101 Affixing of official identification.
- 70.102 Removal of official identification.
- 70.103 Packaging.
- 70.104 Retention labels.
- 70.105 Prerequisites to grading and inspection.
- 70.106 Accessibility of products.
- 70.107 Time of grading or inspection in an official plant.

REPORTS

- 70.120 Report of inspection work and grading work.
- 70.121 Information to be furnished to inspectors and graders.
- 70.122 Reports of violations.

FEES AND CHARGES

- 70.130 Payment of fees and charges.
- 70.131 Grading service on a fee basis.
- 70.132 Fees for appeal grading.
- 70.133 Poultry grading fees.
- 70.134 Inspection service on a fee basis.
- 70.135 Fees for additional copies of grading certificates and inspection certificates.
- 70.136 Traveling expenses and other charges.
- 70.137 Additional charges.
- 70.138 On a contract basis.
- 70.139 Fees for grading service or inspection service performed under cooperative agreement.
- 70.140 Disposition of fees for inspections made under cooperative agreement.

INSPECTION

- 70.150 Manner of handling products in an official plant.
- 70.151 Ante-mortem inspection.
- 70.152 Evisceration.
- 70.153 Carcasses held for further examination.
- 70.154 Condemnation and treatment of carcasses.
- 70.155 Certification of carcasses.
- 70.156 Reinspection of edible products.
- 70.157 Edible products for canning.
- 70.158 Products contaminated by polluted water; procedure for handling.
- 70.159 Preparation of animal food or similar uninspected articles in an official plant.
- 70.160 Appeal inspections; how made.

Inspection Certificates

- 70.170 Forms of inspection certificates.
- 70.171 Issuance and disposition of dressed poultry inspection certificates.
- 70.172 Food product inspection certificates; issuance and disposition.
- 70.173 Export certificates; issuance and disposition.
- 70.174 Advance information.

GRADING

- Sec.
70.180 General.
70.181 Live poultry.
70.182 Dressed poultry and ready-to-cook poultry.

Basis of Acceptability of Other Official Inspection Systems

- 70.190 General.
70.191 Requirements as to manner of inspection.
70.192 Determining compliance with § 70.191.

Grading Certificates

- 70.200 Forms.
70.201 Issuance and disposition.
70.202 Advance information.

Regrading

- 70.210 Application for regrading of a graded product.
70.211 Regrading certificates.

Appeal Grading

- 70.220 Application for appeal grading.
70.221 How to obtain appeal grading.
70.222 Record of filing time.
70.223 When an application for an appeal grading may be refused.
70.224 When an application for appeal grading may be withdrawn.
70.225 Who shall perform the appeal grading.
70.226 Appeal grading by immediate superior.
70.227 Order of performance of appeal gradings.
70.228 Appeal grading certificates.

Superseded Certificates

- 70.235 Superseded certificates.

SANITARY REQUIREMENTS

General

- 70.240 Minimum standards for sanitation, facilities, and operating procedures in official plants.
70.241 Authority of Administrator to amend minimum standards for sanitation, facilities, and operating procedures in official plants.

Buildings and Plant Facilities

- 70.250 Buildings.
70.251 Rooms and compartments.
70.252 Floors, walls, ceilings, etc.
70.253 Draining and plumbing.
70.254 Water supply.
70.255 Lavatory accommodations.
70.256 Lighting and ventilation.

Equipment and Utensils

- 70.270 Equipment and utensils.
70.271 Accessibility.
70.272 Restrictions on use.

Maintenance of Sanitary Conditions and Precautions Against Contamination of Products

- 70.280 General.
70.281 Cleaning of rooms and compartments.
70.282 Cleaning of equipment and utensils.
70.283 Operations and procedures.
70.284 Temperatures and cooling and freezing procedures.
70.285 Vermin.
70.286 Exclusion of diseased persons.
70.287 Table showing types of materials.

SUBPART B—UNITED STATES CLASSES, STANDARDS, AND GRADES FOR POULTRY

UNITED STATES CLASSES OF LIVE POULTRY, DRESSED POULTRY AND READY-TO-COOK POULTRY

- 70.300 General.
70.301 Chickens.

- Sec.
70.302 Turkeys.
70.303 Ducks.
70.304 Geese.
70.305 Guineas.
70.306 Pigeons.

UNITED STATES STANDARDS FOR QUALITY OF LIVE POULTRY

General

- 70.320 General.

Standards of Quality

- 70.325 A Quality or No. 1 Quality.
70.326 B Quality or No. 2 Quality.
70.327 C Quality or No. 3 Quality.
70.328 "Reject."

UNITED STATES GRADES FOR LIVE POULTRY

- 70.330 General.

Grades

- 70.335 U. S. Grade A or U. S. No. 1.
70.336 U. S. Grade B or U. S. No. 2.
70.337 U. S. Grade C or U. S. No. 3.
70.338 "No Grade"

UNITED STATES STANDARDS FOR QUALITY OF DRESSED POULTRY AND READY-TO-COOK POULTRY

General

- 70.350 General.

Standards of Quality

- 70.355 A Quality.
70.356 B Quality.
70.357 C Quality.

UNITED STATES GRADES FOR DRESSED POULTRY AND READY-TO-COOK POULTRY

General

- 70.360 General.

Grades

- 70.365 U. S. Grade A.
70.366 U. S. Grade B.
70.367 U. S. Grade C.

Weight Specifications

- 70.370 Suggested weight specifications for dressed poultry and ready-to-cook poultry.

SUBPART C—FORMS, INSTRUCTIONS, AND APPLICATIONS

FORMS OF OFFICIAL IDENTIFICATION

- 70.380 Forms of official identification.
70.381 Form of grade mark.
70.382 Form of inspection mark.
70.383 Combined form of grade mark and inspection mark.
70.384 Identification of certain dressed poultry.

INSTRUCTIONS GOVERNING THE ADMINISTRATION OF POULTRY INSPECTION WHERE A FEDERAL-STATE SERVICE IS DESIRED

Basis; Supervision

- 70.390 Basis of providing Federal-State inspection service.
70.391 Supervision.

Conditions

- 70.395 Regulations.
70.396 Qualifications of Federal-State supervisor.
70.397 Duties of the Federal-State supervisor.
70.398 Employment and licensing of State inspectors.
70.399 Duties of State-employed inspectors.
70.400 Replacement of Federal inspectors.
70.401 Collection of fees.
70.402 Reimbursement of FMA by State cooperating agency.
70.403 Reimbursement of cooperating State agency by FMA.
70.404 Additional provisions.

APPLICATION FOR GRADING SERVICE

- Sec.
70.410 Application for grading service with respect to live poultry, dressed poultry, and ready-to-cook poultry.

AUTHORITY: §§ 70.1 to 70.410 issued under sec. 205, 60 Stat. 1090, Pub. Law 156, 83d Cong., 7 U. S. C. 1624.

SUBPART A—GRADING AND INSPECTION OF POULTRY AND EDIBLE PRODUCTS THEREOF

GENERAL

§ 70.1 *Definitions.* Unless the context otherwise requires, the following terms shall have the following meaning:

"Act" means the following provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U. S. C. 1621 et seq.) and the Department of Agriculture Appropriation Act of 1954 (Pub. Law 156, 83rd Cong., approved July 28, 1953), or any other act of Congress conferring like authority.

AGRICULTURAL MARKETING ACT OF 1946

* * * to develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices * * *

To inspect, certify, and identify the class, quality, quantity, and condition of agricultural products when shipped or received in interstate commerce under such rules and regulations as the Secretary of Agriculture may prescribe, including assessment and collection of such fees as will be reasonable and as nearly as may be to cover the cost of the service rendered, to the end that agricultural products may be marketed to the best advantage, that trading may be facilitated, and that consumers may be able to obtain the quality products which they desire, * * *

DEPARTMENT OF AGRICULTURE APPROPRIATION ACT, 1954

For expenses necessary for acquiring and diffusing market information on agricultural commodities, food products and byproducts, the standardization, classification, grading, handling, storage, and marketing thereof, including the demonstration and promotion of the use of uniform standards of classification of American farm and food products throughout the world, * * *

* * * for investigating and certifying, in one or more jurisdictions, to shippers and other interested parties the class, quality, and condition of any agricultural commodity or food product, whether raw or processed, and any product containing an agricultural commodity or derivative thereof when offered for interstate shipment or when received at such important central markets as the Secretary may from time to time designate, or at points which may be conveniently reached therefrom under such rules and regulations as he may prescribe, including the collection of such fees as are reasonable and as nearly as may cover the cost of the service rendered; * * *

"Acceptable" means suitable for the purpose intended and acceptable to the Administration.

"Administration" means the Production and Marketing Administration of the Department.

"Administrator" means the Administrator of the Production and Marketing Administration of the Department, or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

"Applicant" means any interested party who requests any inspection service or grading service.

"Carcass" means any poultry carcass.

"Circuit supervisor" means the officer in charge of the poultry inspection service in a circuit consisting of a group of stations within an area.

"Class" means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind or between species.

"Condition" means any condition, including but not being limited to, the state of preservation, cleanliness, or soundness of any product; or any condition, including but not limited to, the processing, handling, or packaging which affects such product.

"Condition and wholesomeness" means the condition of any product and its healthfulness and fitness for human food.

"Department" means the United States Department of Agriculture.

"Dressed poultry" means poultry which has been slaughtered for human food with head, feet, and viscera intact and from which the blood and feathers have been removed.

"Edible poultry byproduct" means any giblets or any edible part of dressed poultry other than eviscerated poultry.

"Edible product" means any product other than live poultry and dressed poultry.

"Food product containing poultry product" means any article of food for human consumption which is prepared in part from any edible portion of dressed poultry or from any product derived wholly from such edible portion, if such edible portion or product does not comprise a substantial portion of such article of food.

"Free from protruding pinfeathers" means that the carcass is free from protruding pinfeathers which are visible to an inspector or grader during an examination of the carcass at normal operating speeds. However, a carcass may be considered as being free from protruding pinfeathers if it has a generally clean appearance and if not more than an occasional pinfeather is in evidence (other than on the breast) during a more careful examination of the carcass.

"Giblets" means the liver from which the bile sac has been removed, the heart from which the pericardial sac has been removed, and the gizzard from which the lining and contents have been removed: *Provided*, That each such organ has been properly trimmed and washed.

"Grader" means any employee of the Department authorized by the Secretary, or any other individual to whom a license has been issued by the Secretary, to investigate and certify, in accordance with the regulations in this part, the class, quality, quantity, and condition of products.

"Grading" or "grading service" means: (1) The act whereby a grader determines, according to the regulations in this part, the class, quality, quantity, or condition of any product by examining each unit thereof, or each unit of the

representative sample thereof drawn by a grader, and issues a grading certificate with respect thereto; (2) in addition to the foregoing, the act whereby the grader identifies, according to the regulations in this part, the graded product; (3) with respect to an official plant, the act whereby a grader determines that the products in such plant are processed, handled, and packaged in accordance with §§ 70.240 to 70.287 and (4) any re-grading or any appeal grading of a previously graded product.

"Grading certificate" means a statement, either written or printed, issued by a grader, pursuant to the regulations in this part, relative to the class, quality, quantity, or condition of a product.

"Identify" means to apply official identification to products or the containers thereof.

"Inspected and certified" or "certified" means, with respect to any product, that it has undergone an inspection and was found, at the time of such inspection, to be sound, wholesome, and fit for human food.

"Inspection" "inspection service", or "inspection of products for condition and wholesomeness" means any inspection by an inspector to determine, in accordance with the regulations in this part, (1) the condition and wholesomeness of dressed poultry, or (2) the condition and wholesomeness of any edible product at any stage of the preparation or packaging thereof in the official plant where inspected and certified, or (3) the condition and wholesomeness of any previously inspected and certified product if such product has not lost its identity as an inspected and certified product. In addition to the foregoing, the terms "inspection" and "inspection service" shall each mean any inspection by an inspector to determine, in accordance with the regulations in this part, (4) the condition of dressed poultry as it applies to the processing, handling or packaging of such product, or (5) any ante-mortem examination of poultry.

"Inspection certificate" means a statement, either written or printed, issued by an inspector, pursuant to the regulations in this part, relative to the condition and wholesomeness of products.

"Inspector" means any person who is licensed by the Secretary to investigate and certify in accordance with the regulations in this part, the condition and wholesomeness of products or the condition of dressed poultry. An inspector is an employee of the Department or of a State; he may be a graduate veterinarian or a layman.

"Interested party" means any person financially interested in a transaction involving any inspection or grading.

"National supervisor" means (1) the officer in charge of the poultry inspection service of the Administration, (2) the officer in charge of the poultry grading service of the Administration, and (3) such other officers or employees of the Department who may be so designated by the officer in charge of the poultry inspection and grading service of the Administration.

"Office of grading" means the office of any grader.

"Official identification" means the symbol represented by a stamp, label, seal, or other device approved by the Administrator and affixed to any product, or to any container thereof, stating that the product was inspected or graded or both. The class, quality or condition of such product as determined by a grader may be indicated in the "official identification".

"Official plant" means one or more buildings, or parts thereof, comprising a single plant in which the facilities and methods of operation therein have been approved by the Administrator as suitable and adequate for operation under inspection or grading service and in which inspection or grading is carried on in accordance with the regulations in this part.

"Person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

"Potable water" means water which complies with the U. S. Public Health Service drinking water standards.

"Poultry" means any kind of domesticated bird, including, but not being limited to chickens, turkeys, ducks, geese, pigeons, and guineas.

"Poultry food product" means any article of human food or any article intended for or capable of being so used which is prepared or derived in whole or in substantial part, from any edible portion of dressed poultry.

"Poultry grading and inspection service" means the personnel who are actively engaged in the administration, application, and direction of poultry grading and inspection programs and services pursuant to the regulations in this part.

"Product" means each of the following: (1) Dressed poultry (2) ready-to-cook poultry (3) edible poultry byproduct; (4) poultry food product; and (5) with respect to grading service only, live poultry.

"Quality" means the inherent properties of any product which determine its relative degree of excellence.

"Ready-to-cook poultry" means any dressed poultry from which the protruding pinfeathers, vestigial feathers (hair or down as the case may be) head, shanks, crop, oil gland, trachea, esophagus, entrails, reproductive organs and lungs have been removed, and with or without the giblets, is ready to cook without need of further processing. Ready-to-cook poultry also means any cut-up or disjointed portion of poultry prepared as described in this paragraph.

"Regional supervisor" means any employee of the Department in charge of poultry grading service or poultry inspection service in a designated geographical area.

"Regulations" means the provisions of this entire part and such United States classes, standards, and grades for products as may be in effect at the time grading or inspection is performed.

"Secretary" means the Secretary of the Department, or any other officer or employee of the Department to whom there has heretofore been delegated or to whom there may hereafter be delegated, the authority to act in his stead.

"Soundness" means freedom from external evidence of any disease or condition which may render a carcass unfit for food.

"State supervisor" means any authorized and designated individual who is in charge of the poultry grading service or the poultry inspection service in a State. A State supervisor of poultry inspection service shall be a veterinarian and he is either a Federal-State employee or a Federal employee.

"Station supervisor" means any authorized individual who is designated to supervise the poultry grading service or the poultry inspection service in a large official plant or in a group of several smaller plants.

§ 70.2 *Administration.* The Administrator shall perform for and under the supervision of the Secretary, such duties as are prescribed in the regulations in this part and as the Secretary may require in the administration of the regulations in this part.

§ 70.3 *Grading and inspection services available.* The regulations in this part provide for the following kinds of service; and any one or more of the different services, applicable to official plants, may be rendered in an official plant:

- (a) Grading of live poultry.
- (b) Certification of dressed poultry produced under sanitary requirements in official plants.
- (c) Grading of dressed poultry. (1) In an official plant.
- (2) At terminal markets and other receiving points.
- (d) Inspection of dressed poultry in official plants for processing as ready-to-cook poultry.
- (e) Grading of ready-to-cook poultry. (1) In an official plant.
- (2) At terminal markets and other receiving points.
- (f) Inspection service in official canning plants.

BASIS OF SERVICE

§ 70.10 *Inspection service.* Any inspection service in accordance with the regulations in this part shall be for condition and wholesomeness but, with respect to dressed poultry, as such, the inspection may be for condition only.

§ 70.11 *Grading service.* Any grading service in accordance with the regulations in this part shall be for class, quality, quantity, or condition or any combination thereof. Grading service with respect to determination of quality of products shall be on the basis of United States classes, standards, and grades as contained in Subpart B of the regulations in this part. However, grading service may be rendered with respect to products which are bought and sold on the basis of institutional contract specifications and such service, when approved by the Administrator, shall be rendered on the basis of the specifications of such contract.

§ 70.12 *Continuous grading service.* Continuous grading service in an official plant other than the service provided in § 70.3 (b) may be rendered only when a majority of the graders' time each month

is utilized in performing grading for quality on the basis of the United States standards set forth in Subpart B of the regulations in this part.

§ 70.13 *Supervision.* All grading service and all inspection service shall be subject to supervision at all times by the applicable station supervisor, State supervisor, circuit supervisor, regional supervisor, and national supervisor. Such services shall be rendered where the facilities and conditions are satisfactory for the conduct of the service and the requisite graders and inspectors are available.

§ 70.14 *Dressed poultry; eligibility.* Dressed poultry to be eligible for grading or inspection service shall have been processed in official plants. Except as otherwise provided in this section, only dressed poultry which was processed in an official plant in accordance with the regulations in this part, and dressed poultry which was processed in Canadian registered poultry dressing stations operated in accordance with such methods and procedures as are acceptable to the Administrator, may be graded or inspected in an official plant. Squabs and domesticated game birds (including, but not being limited to, quail, grouse, pheasants, and wild ducks and geese) which were not dressed in an official plant may be brought into an official plant for grading or inspection. In order to facilitate distribution thereof, dressed poultry from other than official plants may be brought into an official plant only in instances where the Administrator can determine that such dressed poultry will be adequately segregated and its form and identity maintained until it is shipped from the official plant.

§ 70.15 *Inspection in official plants; extent required.* All dressed poultry that is eviscerated in an official plant where inspection service is maintained shall be processed in a sanitary manner. Dressed poultry may be eviscerated in such plant without inspection for condition and wholesomeness but uninspected and inspected operations may not be carried on simultaneously except in plants where processing rooms (including packing rooms) are separate and effective segregation of inspected and uninspected products is maintained. Evisceration without inspection may be conducted only if an inspector or governmentally employed grader is on duty, at all times when such operations are carried on, for the purpose of (a) effecting adequate segregation of inspected and uninspected products, (b) control of official inspection marks and grade marks, and (c) supervision of sanitation in the official plant. No uninspected edible products or uninspected slaughtered rabbits shall be brought into such plant except as may be specifically approved by the Administrator upon written request and only for the purpose of rehandling, reconditioning, packaging, freezing, marking, and further distribution and only if an inspector or governmentally employed grader is on duty, at all times when such operations are carried on, for the purpose of effecting adequate segregation of uninspected and inspected

products and control of official inspection marks and grade marks.

§ 70.16 *Certification of dressed poultry produced under sanitary requirements.* With respect to any official plant, dressed poultry, as such, may be certified by a grader as having been processed, handled and packed in accordance with the minimum standards for sanitation, facilities, and operating procedures in official plants. However, in official plants which have available the services of an inspector who is authorized to inspect for condition and wholesomeness, such inspector is also authorized to certify dressed poultry, as such, as having been processed, handled, and packed in accordance with the minimum standards for sanitation, facilities, and operating procedures in official plants. Appropriate grading or inspection processing reports shall be issued with respect thereto as required by the regulations in this part. The bulk containers of such dressed poultry which has been certified as aforesaid, if to be officially identified, shall be marked for identification purposes as provided in § 70.94. All of the poultry that is processed in such official plant as dressed poultry, shall be prepared in accordance with the regulations in this part and under the supervision of a grader or inspector.

§ 70.17 *Examination of ready-to-cook poultry which was not processed in official plants.* When approved by the Administrator, ready-to-cook poultry which was not processed in an official plant may be examined by a grader or inspector at terminal markets and other receiving points to determine (a) the type and condition of the containers of such poultry, (b) whether or not such poultry is in a frozen or fresh state, (c) the extent of visible damage in instances where the product has been subjected to rough and improper handling, and (d) the class and quantity of the product involved. Such poultry shall not be officially identified as a graded or inspected product.

§ 70.18 *Authority to waive provisions of §§ 70.14 and 70.15.* The Administrator is authorized to waive the provisions of §§ 70.14 and 70.15 which pertain to the entry of uninspected edible products into official plants, in specific instances where poultry is to be brought into compliance with a law under the provisions of a court order. Such poultry shall be handled in an official plant in accordance with such procedures as the Administrator may prescribe to insure proper segregation and identity of the poultry until it is shipped from the official plant.

PERFORMANCE OF SERVICES

§ 70.30 *Licensed graders and inspectors.* (a) Any person who is a Federal or State employee possessing proper qualifications as determined by an examination for competency, and who is to perform grading service or inspection service may be licensed by the Secretary as a grader or an inspector.

(b) Any prospective grader, other than a Federal or State employee possessing proper qualifications as determined by an examination for compe-

tency and who is to perform grading service may be licensed by the Secretary as a grader. However, prior to granting of the license, he shall procure and deliver to the Administration a surety bond, issued by such surety as may be approved by the Administrator, in the amount of \$1,000 for the proper performance of the duties of such licensee under the regulations in this part.

(c) All licenses issued by the Secretary shall be countersigned by the officer in charge of the poultry grading and inspection service of the Administration or any other designated official of such service.

§ 70.31 *Suspension of license or authority; revocation.* Pending final action by the Secretary, the officer in charge of the poultry grading and inspection service may, whenever he deems such action necessary, suspend any license or authority effective pursuant to the regulations in this part, by giving notice of such suspension to the respective individual involved, accompanied by a statement of the reasons therefor. Within seven days after the receipt of the aforesaid notice and statement of reasons by such individual, he may file an appeal, in writing, with the Secretary supported by any argument or evidence that he may wish to offer as to why his license or authority should not be suspended or revoked. After the expiration of the aforesaid seven-day period and consideration of such argument and evidence, the Secretary will take such action as he deems appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed seven days the license is revoked.

§ 70.32 *Surrender of license.* Each license which is suspended, or revoked, or has expired shall promptly be surrendered by the licensee to his immediate superior. Upon termination of the services of a licensed grader or inspector the licensee shall promptly surrender his license to his immediate superior.

§ 70.33 *Identification.* Each grader and inspector shall have in his possession at all times, and present upon request while on duty, the means of identification furnished by the Department to such person.

§ 70.34 *Financial interest of inspectors and graders.* No inspector shall inspect and no grader shall grade for quality any product in which he is financially interested.

§ 70.35 *Political activity.* All graders and inspectors who are employees of the Department are forbidden during the period of their respective appointments, or licenses, to take an active part in political management or in political campaigns. Political activity in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, is prohibited. This applies to all appointees, including, but not being limited to, temporary and cooperative employees and employees on leave of absence with or without pay. Willful violation of §§ 70.30 to 70.35 will constitute grounds for dismissal in the

case of appointees and revocation of licenses in the case of licensees.

APPLICATION FOR GRADING SERVICE OR INSPECTION SERVICE

§ 70.40 *Who may obtain grading service or inspection service.* An application for grading service or inspection service may be made by any interested person, including, but not being limited to, the United States, any State, county, municipality, or common carrier, and any authorized agent of the foregoing.

§ 70.41 *How application may be made.*

(a) An application for inspection service must be made in writing and filed with the Administrator.

(b) An application for grading service to be rendered in an official plant must be made in writing and filed with the Administrator.

(c) An application for any grading service to be rendered other than in an official plant may be made in any office of grading, or with any grader at or nearest the place where the service is desired. Such application may be made orally, in writing, or by telegraph. If the application for grading service is made orally, the office of grading or the grader with whom the application is made, or the Administrator may require that the application be confirmed in writing.

(d) Each application for grading service or inspection service shall include such information as may be required by the Administrator in regard to the products and premises where the service is to be rendered.

§ 70.42 *Filing of application.* An application for grading service or inspection service shall be regarded as filed only when made pursuant to the regulations in this part.

§ 70.43 *Authority of applicant.* Proof of the authority of any person applying for grading service or inspection service may be required at the discretion of the Administrator.

§ 70.44 *Application for inspection service or grading service in official plants; approval.* Any person desiring to process and pack products in a plant under grading service or inspection service, or both, must receive approval of such plant and facilities as an official plant prior to the rendition of such service. An application for grading service or inspection service to be rendered in an official plant shall be approved according to the following procedure:

(a) *Initial survey.* When application has been filed for grading service or inspection service, as aforesaid, the regional supervisor, or his assistant, shall examine the plant, premises, and facilities and shall specify any additional or necessary facilities required for the service. Appeals with respect to any such specification may be made to the national supervisor.

(b) *Drawings and specifications to be furnished in advance of construction or alterations.* Four copies of drawings, consisting of floor plans of space to be included in the official plant, showing the locations of such features as the principal pieces of equipment, floor

drains, hand washing facilities, hose connections for clean-up purposes, cardinal points of the compass, and the routes of dressed poultry, and edible and inedible products through the plant, properly drawn to scale, shall be submitted to the regional supervisor. The official plant shall include toilet and dressing rooms, office space for the inspector and grader, store rooms for supplies used in the operations under inspection or grading, feeding rooms, and all rooms, compartments or passageways where products or any ingredients to be used in the preparation of products under inspection service or grading service will be handled or kept, and may include other rooms or compartments located in the buildings comprising the official plant. If rooms or compartments shown on the drawings are not to be included as part of the official plant this should be clearly indicated thereon. Specifications covering the height of ceilings, types of principal pieces of equipment, character of floors, walls, and ceilings, lighting, ventilation, water supply, and drainage, and such other notations as may be required, shall accompany the drawings. Construction or remodeling of buildings, facilities, or premises should not be initiated without prior approval of the drawings. Upon approval of drawings and specifications the application for grading service or inspection service may be approved.

(c) *Final survey and plant approval.* Prior to the inauguration of the grading service, or inspection service, a final survey of the plant and premises shall be made by the regional supervisor or his assistant to determine if the plant is constructed and facilities are installed in accordance with the approved drawings, and the regulations in this part. The plant may be approved by the Administrator only when these requirements have been met, except that conditional approval for a specified limited time may be granted only under emergency conditions of restricted availability of facilities and construction materials, provided practices suitable to the Administrator are employed to effect adequate sanitary conditions in the plant.

§ 70.45 *Rejection of application.* Any application for grading or inspection service may be rejected by the Administrator (a) whenever the applicant fails to meet the requirements of the regulations prescribing the conditions under which the service is made available; (b) whenever the product is owned by or located on the premises of a person currently denied the benefits of the act; (c) where any individual holding office or a responsible position with or having a substantial financial interest or share in the applicant is currently denied the benefits of the act or was responsible in whole or in part for the current denial of the benefits of the act to any person; or (d) where he determines that the application is an attempt on the part of a person currently denied the benefits of the act to obtain grading or inspection service. Each such applicant shall be notified promptly of the reasons for the rejection. A written petition for recon-

sideration of such rejection may be filed by the applicant with the Administrator within 10 days after notice of the rejection. Such petition shall state specifically the errors alleged to have been made by the Administrator in rejecting the application. Within 20 days following the receipt of such a petition for reconsideration, the Administrator shall approve the application or notify the applicant of the reasons for the rejection thereof.

§ 70.46 Withdrawal of application. Any application for grading or inspection service may be withdrawn by the applicant at any time before the service is performed upon payment by the applicant, of all expenses incurred by the Administration in connection with such application.

§ 70.47 Order of service. Grading service or inspection service shall be performed, insofar as practicable, in the order in which application therefor is made except that precedence may be given to any application for an appeal inspection or appeal grading.

§ 70.48 Suspension of plant approval. (a) Any plant approval given pursuant to the regulations in this part may be suspended by the Administrator for (1) failure to maintain plant and equipment in a satisfactory state of repair; (2) the use of operating procedures which are not in accordance with the regulations in this part; or (3) alterations of buildings, facilities, or equipment which cannot be approved in accordance with the regulations in this part.

(b) During such period of suspension inspection and grading service shall not be rendered. However, the other provisions of the contract for service will remain in effect unless terminated in accordance with the terms thereof. If the plant facilities or methods of operation are not brought into compliance within a reasonable period of time, to be specified by the Administrator, the contract shall be terminated. Upon termination of any contract providing for inspection or grading service in an official plant pursuant to the regulations in this part, the plant approval shall also become terminated, and all labels, seals, tags or packaging material bearing official identification shall, under the supervision of a person designated by the Administration, either be destroyed, or the official identification completely obliterated, or sealed in a manner acceptable to the Administration.

VIOLETIONS

§ 70.60 Denial of service. (a) The acts or practices set forth in §§ 70.61 to 70.66 may be deemed sufficient cause for the debarment of any person by the Administrator from any or all benefits of the act for a specified period after notice and opportunity for hearing has been accorded him.

(b) Whenever the Administrator has reason to believe that any person, or his employee, agent, or representative has flagrantly or repeatedly committed any of the acts or practices specified in §§ 70.61 to 70.66, he may without hearing, direct that the benefits of the act be

denied such person pending investigation and hearing. A written petition for reconsideration of such interim denial may be filed with the Administrator by any person so denied the benefits of the act within 10 days after notice of the interim denial. Such petition shall state specifically the errors alleged to have been made by the Administrator in denying the benefits of the act pending investigation and hearing. Within 20 days following the receipt of such a petition for reconsideration, the Administrator shall reinstate the benefits of the act or notify the petitioner of the reasons for continued interim denial.

§ 70.61 Misrepresentation, deceptive, or fraudulent acts or practices. Any wilful misrepresentation or any deceptive or fraudulent act or practice found to be made or committed by any person in connection with:

(a) The making or filing of any application for any grading service or inspection service, appeal or regrading service;

(b) The making of the product accessible for grading or inspection;

(c) The use of any grading certificate or inspection certificate issued pursuant to the regulations in this part or the use of any official stamp, label, or identification;

(d) The use of the terms "United States," or "U. S." in conjunction with the grade of the product;

(e) The use of any of the aforesaid terms or an official stamp, label, or identification in the labeling or advertising of any product; or

(f) The use of the terms "Government graded," "Federal-State graded," "U. S. inspected," "Government inspected," or terms of similar import in the labeling or advertising of any product.

§ 70.62 Use of facsimile forms. The unauthorized use of a form which simulates in whole or in part any official certificate, stamp, label, or identification authorized to be issued or used under the regulations in this part to evidence the inspection or grade of any product.

§ 70.63 Wilful violation of the regulations. Any wilful violation of the regulations in this part.

§ 70.64 Interfering with a grader or inspector. Any interference with or obstruction of any grader or inspector in the performance of his duties by intimidation, threat, bribery, assault or any other improper means.

§ 70.65 Misleading labeling. The use of the terms "Government graded," "Federal-State graded," or terms of similar import in the labeling of any product without stating in the label the U. S. grade of the product as determined by an authorized grader.

§ 70.66 Miscellaneous. The existence of any of the conditions set forth in § 70.45 constituting a basis for the rejection of an application for grading or inspection service.

OTHER APPLICABLE REGULATIONS

§ 70.80 Other applicable regulations. Compliance with the regulations in this part shall not excuse failure to comply

with any other Federal, or any State or municipal, applicable laws or regulations.

PUBLICATIONS

§ 70.85 Publications. Publications under the act and the regulations in this part shall be made in the FEDERAL REGISTER, the Service and Regulatory Announcements of the Department, and such other media as the Administrator may approve for the purpose.

IDENTIFYING AND MARKING PRODUCTS

§ 70.90 Approval of official identification. Any label or packaging material which bears any official identification shall be used only in such manner as the Administrator may prescribe. No label or packaging material bearing official identification may be used unless finished copies or samples of such labels and packaging material have been approved by the Administrator. No label bearing the official identification shall be printed for use until the printer's final proof has been approved by the Administrator; and no label, other than labels for shipping containers or institutional packs, bearing any official identification shall be used until finished copies or samples of such labels have been approved by the Administrator. Final approval may be given to printer's final proof or photostatic copies of labels for shipping containers or containers for institutional packs, and no such labels shall be used until such proofs or copies have been approved by the Administrator. A label which bears official identification shall not bear any statement that is false or misleading, and if labels in the name of the same packer or distributor, or bearing the same brand name, are used on the same or similar products which are prepared from products which are not inspected, the diameter of the inspection mark, or combination inspection and grading mark, used on labels for inspected products shall be equal to at least one-tenth of the length of the label, plus at least one-tenth of the width of the label. If the labeling is printed or otherwise applied directly on the container, the principal display panel of such container shall, for this purpose, be considered as the label.

§ 70.91 Products that may be individually grade marked, information required on grade mark. (a) Only ready-to-cook poultry of A, B, or C quality may be individually identified with a grade mark.

(b) Except as otherwise authorized each grade mark which is to be used shall conspicuously indicate the U. S. grade of the product it identifies, and shall indicate the class or whether the bird is "young," or "mature" or "old," and shall include one of the following phrases: "Federal-State graded," "Government graded" or any other similar phrase approved by the Administrator. Such grade mark shall be contained within the outline of a shield of such design as may be approved by the Administrator.

§ 70.92 Use of grade mark and inspection mark with respect to the same product. The Administrator is authorized to prescribe and approve the form

of the grade mark and inspection mark that may be used individually or in combination with respect to the same product.

§ 70.93 Marking inspected products—

(a) *Wording and form of the inspection mark.* Except as otherwise authorized, the inspection mark permitted to be used with respect to inspected and certified edible products shall include wording as follows: "Inspected for wholesomeness by U. S. Department of Agriculture." This wording, in such form as the Administrator may prescribe or approve, shall be contained within a circle. The Administrator may approve the use of abbreviations of such inspection mark; and such approved abbreviations shall have the same force and effect as the inspection mark. The inspection mark or approved abbreviation thereof, as the case may be, may be applied to the inspected and certified edible product or to the packaging material of such product. The inspection mark, or the approved abbreviation thereof, shall, when used on packaging material, be printed on such material or on a label to be affixed to the packaging material, and the name of the packer or distributor of such product must be legibly printed on the packaging material or label, as the case may be, excepting that on shipping containers and containers for institutional packs the inspection marks may be stenciled on the container and when the inspection mark is so stenciled, the name and address of the packer or distributor may be applied by the use of a stencil or a rubber stamp.

(b) *Wording on labels.* Each trade label to be approved for use pursuant to §§ 70.90 to 70.94 with respect to any inspected and certified edible product shall bear the true name of the edible product, the name and address of the packer or distributor thereof, and, in prominent letters and figures of uniform size, the inspection mark, as aforesaid; and the label shall also bear, in such manner as may be prescribed or approved by the Administrator, the plant number, if any, of the official plant in which such product was inspected and certified.

(c) *Formulas required.* Copies of each trade label submitted for approval pursuant to §§ 70.90 to 70.94 shall, when the Administrator requires, be accompanied by a statement showing the kinds and percentages of the ingredients comprising the edible product with respect to which the label is to be used. Approximate percentages may be given in cases where the percentages of ingredients may vary from time to time, if the limits of variation are stated.

(d) *Wording permitted on food products containing poultry products.* Any trade label which is to be affixed to a container of any food product containing poultry product which is packed under the supervision of an inspector in any official plant may bear the phrase: "The poultry product contained herein has been inspected and certified at a plant where Federal inspection is maintained." Each such trade label shall also be subject to the applicable provisions of §§ 70.90 to 70.94.

(e) *Labels in foreign languages.* Any trade label to be affixed to a container of any edible products for foreign commerce may be printed in a foreign language. However, the inspection mark shall appear on the label in English, but, in addition, may be literally translated into such foreign language. Each such trade label which is to be printed in a foreign language must be approved pursuant to §§ 70.90 to 70.94.

(f) *Use of approved labels.* Trade labels approved for use pursuant to §§ 70.90 to 70.94 shall be used only for the purpose for which approved.

§ 70.94 Marking dressed poultry which was certified as having been produced under sanitary requirements. The Administrator is authorized to prescribe and approve the manner in which dressed poultry which was processed in accordance with minimum standards for sanitation, facilities, and operating procedures in official plants may be marked for identification purposes.

SUPERVISION OF MARKING AND PACKAGING

§ 70.100 Evidence of label approval. No grader or inspector shall authorize the use of official identification for any graded or inspected product unless he has on file evidence that such official identification or packaging material bearing such official identification has been approved in accordance with the provisions of §§ 70.90 to 70.94.

§ 70.101 Affixing of official identification. (a) No official identification or any abbreviation, copy or representation thereof may be affixed to or placed on or caused to be affixed to or placed on any product or container thereof except by a grader or an inspector or under the supervision of a grader or an inspector or other person authorized by the Administrator. All such products shall have been inspected and certified or graded or both. The grader or inspector shall have supervision over the use and handling of all material bearing any official identification.

(b) Each container of inspected and certified edible products to be shipped from one official plant to another official plant for further processing shall be marked for identification and shall show the following information:

(1) The name of the inspected and certified edible products in the container;

(2) The name and address of the packer or distributor of such product;

(3) The net weight of the container;

(4) The inspection mark permitted to be used pursuant to the regulations in this part, unless the containers are sealed or otherwise identified in such manner as may be approved by the Administrator; and

(5) The plant number of the official plant where the products were packed.

§ 70.102 Removal of official identification. Official plants which receive dressed poultry or ready-to-cook poultry in containers which bear any official identification shall remove or deface such official identification upon removal of such poultry from the containers.

§ 70.103 Packaging. No container which bears or may bear an inspection mark or any abbreviation or copy or representation thereof may be filled in whole or in part except with edible products which were inspected and certified and are at the time of such filling, sound, wholesome and fit for human food. All such filling of containers shall be under the supervision of an inspector or grader.

§ 70.104 Retention labels. An inspector or grader may use such labels, devices and methods as may be approved by the Administrator for the identification (a) of products which are held for further examination, and (b) all equipment and utensils which are to be held for proper cleaning.

§ 70.105 Prerequisites to grading and inspection. Grading and inspection of products shall be rendered pursuant to the regulations in this part and under such conditions and in accordance with such methods as may be prescribed or approved by the Administrator.

§ 70.106 Accessibility of products. Each product for which grading service or inspection service is requested shall be so placed as to disclose fully its class, quality, quantity, and condition as the circumstances may warrant.

§ 70.107 Time of grading or inspection in an official plant. The grader or inspector who is to perform the grading or inspection in an official plant shall be informed, in advance, of the hours when such grading or inspection will be required. Graders and inspectors shall have access at all times to every part of any official plant to which they are assigned.

REPORTS

§ 70.120 Report of inspection work and grading work. Reports of the work of inspection and grading carried on within official plants shall be forwarded to the Administrator by the inspector and grader in such manner as may be specified by the Administrator.

§ 70.121 Information to be furnished to inspectors and graders. When inspection service or grading service is performed within an official plant, the applicant for such inspection or grading shall furnish to the inspector or grader rendering such service such information as may be required for the purposes of §§ 70.120 to 70.122.

§ 70.122 Reports of violations. Each inspector and each grader shall report, in the manner prescribed by the Administrator, all violations of and noncompliance with the act and the regulations in this part of which he has knowledge.

FEES AND CHARGES

§ 70.130 Payment of fees and charges. (a) Fees and charges for any grading or inspection shall be paid by the applicant for the service in accordance with the applicable provisions of §§ 70.130 to 70.140 and, if so required by the Administrator, such fees and charges shall be paid in advance.

(b) Fees and charges for any grading or inspection performed by any grader or inspector who is a salaried employee

of the Department shall, unless otherwise required pursuant to paragraph (c) of this section, be paid by check, draft, or money order payable to the Treasurer of the United States and remitted promptly to the Administration.

(c) Fees and charges for any grading or inspection pursuant to a cooperative agreement with any State or person shall be paid in accordance with the terms of such cooperative agreement.

§ 70.131 *Grading service on a fee basis.* (a) Unless otherwise provided the fees to be charged and collected for any grading service (other than for an appeal grading) on a fee basis shall be based on the applicable rates specified in § 70.133.

(b) In the event the aforesaid applicable rates specified in § 70.133 are deemed by the Administrator to be inadequate fully to reimburse the Administration for all costs and other items paid or incurred by the Administration in connection with such service, the fees for such service shall not be based on the rates specified in § 70.133, but shall be based on the time required to perform such service and the travel of each grader at the rate of \$3.60 per hour for the time actually required.

(c) If an applicant requests that any grading service be performed on a holiday or a non-work day, he may be charged for such service at a rate one and one-half times the rate which would be applicable for such service if performed on a day other than a holiday or non-work day.

§ 70.132 *Fees for appeal grading.* The fees to be charged for any appeal grading shall be double the fee specified in the grading certificate from which the appeal is taken: *Provided*, That the fee for any appeal grading requested by the United States, or any agency or instrumentality thereof, shall be not more than that set forth in the grading certificate from which the appeal is taken. If the fee on the certificate from which the appeal is taken is based on a contract, then the fee for such appeal grading shall be double the amount specified in § 70.133 for the applicable volume of product appeal graded. If the result of any appeal grading discloses that a material error was made in the grading appealed from, no fee shall be required.

§ 70.133 *Poultry grading fees.* For each grading of any lot of poultry, whether live, dressed, or ready-to-cook, the following fees shall be applicable:

For 500 pounds or less.....	\$1.50
For 501 to 1,500 pounds, inclusive....	2.25
For 1,501 to 3,000 pounds, inclusive....	3.00
For 3,001 to 6,000 pounds, inclusive....	4.00
For 6,001 to 10,000 pounds, inclusive....	6.00
For 10,001 to 20,000 pounds, inclusive....	10.00
For each additional 10,000 pounds or fraction thereof, in excess of 20,000 pounds	3.00

§ 70.134 *Inspection service on a fee basis.* Fees to be charged and collected for inspection services furnished on a fee basis shall be based on the time required to render such services including, but not being limited to, the time required for the travel of the inspector or inspectors in connection therewith, at

the rate of \$3.60 per hour for each inspector for the time actually required.

§ 70.135 *Fees for additional copies of grading certificates and inspection certificates.* Additional copies, other than those provided for in §§ 70.171 to 70.173, 70.201 and 70.211, of any grading certificates or inspection certificates may be supplied to any interested party upon payment of a fee of \$1.00 for each set of five or fewer copies.

§ 70.136 *Traveling expenses and other charges.* Charges may be made to cover the cost of traveling and other expenses incurred by the Administration in connection with the performance of any grading service or inspection service.

§ 70.137 *Additional charges.* With respect to any grading service performed in a freight or express car or any other place where the entire lot of the product is not readily accessible to the grader, a charge of \$5.00 shall be made in addition to the applicable rates specified in § 70.133.

§ 70.138 *On a contract basis.* Fees to be charged and collected for any grading service or inspection service, other than for an appeal grading, on a contract basis shall be those provided for in such contract. The fees to be charged for any appeal grading shall be as provided in § 70.132.

§ 70.139 *Fees for grading service or inspection service performed under cooperative agreement.* The fees to be charged and collected for any grading service or inspection service, performed under cooperative agreement shall be those provided for by such agreement.

§ 70.140 *Disposition of fees for inspections made under cooperative agreement.* Fees for inspection under a cooperative agreement with any State or person shall be disposed of in accordance with the terms of such agreement. Such portion of the fees collected under a cooperative agreement as may be due the United States shall be remitted to the Administration.

INSPECTION

§ 70.150 *Manner of handling products in an official plant.* Unless otherwise specified in the regulations in this part or by the Administrator, products which are to be further processed under inspection in an official plant shall be prepared and handled in such official plant under the supervision of an inspector.

§ 70.151 *Ante-mortem inspection.* Ante-mortem examination of poultry may be required by the Administrator as a prerequisite to any inspection; and such ante-mortem examination shall be carried out under such conditions and in accordance with such methods as may be prescribed or approved by the Administrator.

§ 70.152 *Evisceration.* No viscera or any part thereof shall be removed from any dressed poultry which is to be processed under inspection in any official plant, except at the time of evisceration and inspection. Each carcass to be eviscerated shall be opened so as to expose the organs and the body cavity for proper

examination by the inspector and shall be prepared immediately after inspection as ready-to-cook poultry. If a carcass is frozen, it shall be thoroughly thawed before being opened for examination by the inspector. Each carcass, or all parts comprising such carcass, shall be examined by the inspector. *Provided*, That the Administrator may, whenever he deems it advisable and under such conditions as he may prescribe, authorize the removal from such carcass or parts as aforesaid, of any part thereof prior to such inspection if such part will not be used in the preparation of any edible product.

§ 70.153 *Carcasses held for further examination.* Each carcass, including all parts thereof, in which there is any lesion of disease, or other condition, which might render such carcass or any part thereof unfit for human food, and with respect to which a final decision cannot be made on first examination by the inspector, shall be held for further examination. The identity of each such carcass, including all parts thereof, shall be maintained until a final examination has been completed.

§ 70.154 *Condemnation and treatment of carcasses.* At the time of evisceration under inspection service each carcass, or any part thereof, which is found to be unsound, unwholesome, or otherwise unfit for human food shall be condemned by the inspector and shall receive such treatment, under the supervision of the inspector as will prevent its use for human food and preclude dissemination of disease through consumption by animals.

§ 70.155 *Certification of carcasses.* Each carcass and all parts and organs thereof which are found by the inspector to be sound, wholesome, and fit for human food shall be certified as provided in this part.

§ 70.156 *Reinspection of edible products.* (a) Any inspected and certified edible product may be brought into an official plant only if the container of such product is marked for identification in the manner prescribed in § 70.101 (b) and the product is reinspected by an inspector at the time it is brought into such plant. Upon reinspection, if any such product or portion thereof is found to be unsound, unwholesome, or otherwise unfit for human food, such product, or portion thereof, shall be condemned and shall receive such treatment as that provided in § 70.154.

(b) Any product which is prepared under inspection in an official plant shall be inspected in such plant as often as the inspector deems it necessary in order to ascertain whether such product is sound, wholesome, and fit for human food at the time such product leaves such plant. Upon any such inspection, if any such product or portion thereof is found to be unsound, unwholesome, or otherwise unfit for human food, such product or portion thereof shall be condemned and shall receive such treatment as that provided in § 70.154.

(c) All substances and ingredients used in the manufacture or preparation of any edible product shall be clean,

sound, wholesome, and fit for human food.

§ 70.157 *Edible products for canning.* Only inspected and certified edible products may be canned in an official plant; and such edible products shall be processed and handled in compliance with the following requirements:

(a) Immediate containers (whether of metal, glass, or other material) shall be cleaned thoroughly by washing in an inverted position with running water of a temperature of at least 180° F. prior to filling with edible products; and precaution shall be taken to avoid any subsequent soiling of the inner surfaces of such containers.

(b) Only perfect closure is acceptable for hermetically sealed containers; and heat processing of the products in such containers shall follow immediately after closing.

(1) Except as provided in paragraph (c) of this section, such products shall be so processed at such temperature and for such period of time as will insure preservation of the products under usual conditions of storage and transportation.

(2) Immediately after closing, and again after the containers have cooled sufficiently for handling after heat processing, careful examination shall be made by competent plant employees of all containers to ascertain whether such containers are perfectly sealed. The edible products in such containers as are defectively closed or sealed shall, as promptly as practicable, be filled into other containers, hermetically sealed, and heat processed unless the containers are promptly placed in a cooler at a temperature not exceeding 36° F. under conditions that will promptly and effectively chill them. Such chilled containers of products shall be opened and the contents removed and reprocessed immediately after removal from the cooler: *Provided*, That if such containers remained in the cooler for a period of 24 hours or longer, the contents shall be inspected by an inspector prior to the reprocessing thereof. Failure to comply with the provisions of this paragraph shall subject the edible products to condemnation.

(c) After heat processing, and after the containers have cooled sufficiently for handling, the containers shall be examined by competent plant employees and shall not be passed unless showing the external characteristics of sound containers, that is, there is no bulging or slack or loose tin.

(d) After heat processing, any containers of edible products showing characteristics of short vacuum or over-stuffed containers shall, when an inspector deems it necessary in order to determine whether spoilage of the product has taken place, be incubated under the supervision of an inspector, after which the containers shall be opened and sound products passed for food and spoiled products condemned.

(e) Edible products may, when authorized by the national supervisor, and under such conditions as he may prescribe or approve, be canned without steam-pressure cooking, and such prod-

ucts shall be labeled "Perishable, keep under refrigeration."

(f) Each lot of canned edible products shall be identified, during the handling preparatory to heat processing, by tagging the baskets, cases, or containers with a tag which will change color on going through the heat processing or by other effective means which will positively prevent failure to heat process.

(g) Facilities shall be provided to incubate at least representative samples of fully processed canned edible products. The incubation shall consist of holding the samples for at least 10 days at about 98° F. The extent to which incubation tests shall be required will depend on conditions such as the efficiency of the plant in conducting canning operations, the kind of equipment used, and the degree of efficiency at which such equipment is maintained.

(1) In the event the official plant fails to provide suitable facilities for incubation of test samples of any lot of fully processed canned edible products, the inspector in charge may require holding of the entire lot under such conditions and for such period of time as will, in his discretion, be necessary to ascertain the stability of the product.

(2) The inspector in charge may, prior to completion of any required incubation of a representative sample, permit lots of fully processed canned edible products to be shipped from the official plant when he has no reason to suspect unsoundness of such products; however, such shipments shall be made under circumstances which will assure the return of the products to the plant for reinspection should such action be indicated by the incubation results.

(h) All canned products, excepting those in glass, shall be plainly and permanently marked, by code or otherwise, on the containers, with the identity of the contents and date of canning. If the marking is by code, its meaning shall be on record in the office of the inspector in charge.

§ 70.158 *Products contaminated by polluted water; procedure for handling.*

(a) In the event there is polluted water (including, but not being limited to, flood water and harbor water) in an official plant, all edible products that have been contaminated by the water shall be condemned.

(b) After the polluted water has receded, all walls, ceilings, posts, and floors of the rooms and compartments involved, including the equipment therein, shall, under the supervision of an inspector, be cleansed thoroughly. An adequate supply of hot water, under pressure, is essential for effective cleansing. After cleansing, a solution of sodium hypochlorite containing approximately ½ of 1 percent of available chlorine (5,000 parts per million), or other disinfectant approved by the national supervisor, shall be applied; and all metal surfaces shall be rinsed thoroughly with water to prevent corrosion. Any such equipment that will afterwards be used in connection with any edible product shall be rinsed thoroughly with clean water before being used.

(c) Hermetically sealed containers of edible products which have been submerged in, or otherwise contaminated by, the polluted water shall be rehandled promptly under supervision of an inspector as follows:

(1) Such of the containers as are swollen or leaky or otherwise do not show the external characteristics of sound containers shall be segregated and the contents thereof condemned.

(2) Paper labels, if any, attached or affixed to the remaining containers shall be removed and the containers washed in warm soapy water; and, if necessary to remove rust and other foreign material, a brush shall be used.

(3) Thereafter, such containers shall be immersed in a solution of sodium hypochlorite containing not less than 100 parts per million of available chlorine, or other disinfectant approved specifically for this purpose by the national supervisor, and rinsed in clean fresh water and dried thoroughly. Any such containers which show extensive rusting or corrosion, such as might materially weaken the container, shall be opened under the supervision of an inspector. The edible products from such containers that are found by the inspector to be sound and wholesome shall be passed for human food.

(4) The remaining containers may be relacquered, if necessary, and then relabeled with approved labels applicable to the edible products therein.

(5) The identity of the canned edible products shall be maintained throughout all stages of the rehandling operation to insure correct labeling of the containers.

§ 70.159 *Preparation of animal food or similar uninspected articles in an official plant.*

(a) When an article (including, but not being limited to, animal food) that will not be prepared for use as human food is prepared in any room or compartment in an official plant where edible products are prepared or handled (such room or compartments being herein referred to as "edible products department"), there shall be sufficient space allotted, and adequate equipment provided, so that the preparation of the article in no way interferes with the preparation or handling of the edible products. Where necessary, separate equipment shall be provided for the preparation of the article. To assure the maintenance of the requisite sanitary conditions in the edible products department, the operations incident to the preparation of the article shall be subject to the same sanitary requirements as apply to the edible products department. Preparation of the article shall be limited to those hours during which the official plant operates under the supervision of an inspector. The ingredients used in the preparation of the article shall, unless otherwise approved by the national supervisor, be such as may be used in the preparation of an edible product. The article may be stored in, and distributed from, the edible products department if the article is properly identified.

(b) When any article (including, but not being limited to, animal food) that will not be prepared for use as human

food, is prepared in any part of an official plant other than an edible products department (such part of the plant being herein referred to as "inedible products department") the area in which such article is prepared shall be distinctly separated from all edible products departments. Edible products and inedible products may be brought from any edible products department into any inedible products department, but no edible product or inedible product from an inedible products department may be brought into an edible products department except under such conditions as may be prescribed or approved by the national supervisor. Any such articles as are in sealed containers or are handled in the manner prescribed or approved by the national supervisor may be brought into an edible products department. Diseased carcasses or diseased parts of any carcass shall not be used in the preparation of any animal food. Trucks or containers used for the transportation of edible products or inedible products into an inedible products department shall be cleaned before being returned to or brought into an edible products department. Sufficient space shall be allotted and adequate equipment and facilities provided so that the preparation of the article does not interfere with the preparation of edible products in the plant or the maintenance of the requisite sanitary conditions in the official plant. The preparation of any article shall be subject to supervision by an inspector.

(c) The immediate container of any such article that is prepared in an official plant shall be conspicuously labeled so as to distinguish it from human food.

§ 70.160 Appeal inspections; how made. Any interested party may, if dissatisfied with any decision of an inspector relating to any inspection, file an appeal from such decision. Any such appeal from a decision of an inspector shall be made to his immediate superior having jurisdiction over the subject matter of the appeal. Review of such appeal findings, when requested, shall be made by the immediate superior of the employee of the Department making the appeal inspection.

Inspection Certificates

§ 70.170 Forms of inspection certificates. Each inspection certificate issued pursuant to the regulations in this part shall be approved by the Administrator as to form, and:

(a) Each dressed poultry inspection certificate shall show the class or classes of poultry, the quantity of product contained in the respective lot, and all pertinent information concerning the condition and wholesomeness thereof;

(b) Each food product inspection certificate shall show the names of the edible products covered by such certificate, the quantity of each such product, such shipping marks as are necessary to identify such products, and all pertinent information concerning the condition and wholesomeness thereof;

(c) Each export certificate shall show the respective names of the exporter and the consignee, the destination, the shipping marks, the numbers of the export

stamps attached to the edible products to be exported and covered by the certificate, and the names of such products and the total net weight thereof.

§ 70.171 Issuance and disposition of dressed poultry inspection certificates. (a) Upon the request of an interested party any inspector is authorized to issue a dressed poultry inspection certificate with respect to any lot of dressed poultry inspected by him. Each certificate shall be signed by the inspector who made the inspection covered by the certificate, and if more than one inspector participated in the inspection of the lot of poultry, each such inspector shall sign the certificate with respect to such lot.

(b) The original of each inspection certificate, issued pursuant to §§ 70.170 to 70.174, and not to exceed three copies thereof, shall, immediately upon issuance, be delivered or mailed to the applicant or person designated by him. One copy shall be filed in the office of the regional supervisor serving the area in which the inspection was performed, and the remaining copies to be disposed of in such manner as the Administrator may approve. Additional copies of any such certificate may be furnished to any interested party as provided in § 70.135.

§ 70.172 Food product inspection certificates; issuance and disposition. (a) Upon the request of an interested party, any inspector is authorized to issue a food product inspection certificate with respect to any inspected and certified edible product after suitable examination of the product has been made by the inspector.

(b) The original of each food product inspection certificate, and not to exceed two copies thereof, if requested, shall, immediately upon issuance, be delivered or mailed to the applicant or person designated by him. Another copy shall be filed in the office of the regional supervisor serving the area in which such certificate was issued, and one copy shall be forwarded to the Administrator. The last named two copies shall be retained until otherwise ordered by the Administrator.

§ 70.173 Export certificates; issuance and disposition. (a) Upon the request of an exporter, any inspector is authorized to issue an export certificate with respect to the shipment to any foreign country of any inspected and certified edible product after suitable examination of the product has been made by the inspector.

(b) Each export certificate shall be issued in quintuplicate; the original shall be delivered to the exporter who requested such certificate; and the duplicate copy shall be delivered to the agent of the railroad or other carrier transporting such products from the United States. The triplicate copy of such export certificate shall be forwarded to the Administrator; the quadruplicate copy shall be filed in the office of the regional supervisor serving the area in which such export certificate was issued; and the memorandum copy shall be retained by the inspector for filing. The last named three copies shall be retained until otherwise ordered by the Administrator.

§ 70.174 Advance information. Upon the request of an applicant, all or part of the contents of any inspection certificate issued to such applicant may be telephoned or telegraphed to him, or to any person designated by him, at his expense.

GRADING

§ 70.180 General. Grading service performed with respect to any quantity of products shall, as the case may require, be on the basis of an examination, pursuant to the regulations in this part, of each unit thereof or of each unit in the representative sample thereof drawn by a grader. Whenever the grading service is performed on a representative sample basis, such sample shall be drawn and consist of not less than the minimum number of containers as indicated in the following table:

[Minimum number of containers comprising a representative sample]

Containers in lot:	Containers in sample
3 containers, or less.....	(1)
4 to 20, inclusive.....	3
21 to 50, inclusive.....	6
51 to 140, inclusive.....	7
In excess of 140 containers.....	(2)

¹ All containers.

² Five percent of the number of containers in the lot.

§ 70.181 Live poultry. Grading service performed with respect to any quantity of live poultry shall, as the case may require, be on the basis of an examination, pursuant to regulations in this part, of each unit thereof or of each unit in the representative sample thereof drawn by a grader. Such poultry may be identified with official identification on a lot basis only.

§ 70.182 Dressed poultry and ready-to-cook poultry—(a) In an official plant. Grading service performed in an official plant with respect to dressed poultry or ready-to-cook poultry shall, as the case may require, be on the basis of each individual carcass or on a representative sample basis.

(1) Only such ready-to-cook poultry which has been inspected and certified pursuant to the regulations in this part or which has been inspected and passed by any other inspection system which is acceptable to the Administrator, may be graded.

(2) Only such ready-to-cook poultry which has been graded on an individual carcass basis may be individually identified with the appropriate grade mark, and any container of such ready-to-cook poultry may also be so identified. The grading of ready-to-cook poultry shall be performed prior to the disjointing or cutting up of the carcass.

(3) Only the bulk containers of dressed poultry may be identified with the appropriate grade mark even though the grading may have been performed on an individual carcass basis.

(b) *At terminal markets and other receiving points.* Grading service performed with respect to dressed poultry or ready-to-cook poultry at terminal markets or other receiving points may be on a representative sample basis. Only such dressed poultry which was

processed in an official plant may be identified with a grade mark. Except as otherwise provided for in institutional contract specifications pursuant to § 70.11 only ready-to-cook poultry which was inspected and certified and is marked with the inspection mark or in accordance with the provisions of § 70.101 (b) may be graded. The grade mark shall not be applied to uninspected ready-to-cook poultry.

Basis of Acceptability of Other Official Inspection Systems -

§ 70.190 *General.* Any poultry inspection system may be deemed to be acceptable to the Administrator which (a), is conducted under the authority of laws, ordinances, or similar enactments of the State, county, city, or other political subdivision in which is located the official plant at which the ready-to-cook poultry is prepared and submitted for grading service; and (b) imposes at least the requirements set forth in § 70.191. *Provided,* That no such inspection system shall be deemed acceptable to the Administrator with respect to any official plant in which ready-to-cook poultry is prepared if he finds at any time that such requirements are not adequately enforced.

§ 70.191 *Requirements as to manner of inspection.* (a) The inspection shall be made by a State, county or city inspector who is a qualified veterinarian or under the supervision of a qualified veterinarian. All such inspectors shall be employed by the State, county, city, or other political subdivision in which the official plant is located.

(b) The inspection shall include post-mortem examination of each poultry carcass during the evisceration operation.

(c) All carcasses which show evidence of disease or any other condition which may render them unwholesome or unfit for food shall be condemned and shall be destroyed for food purposes under the supervision of an inspector. Each carcass and part thereof which has been inspected and passed or containers of carcasses or parts thereof shall bear the identifying inspection symbol of the other official inspection system and the marking devices or labels shall be in the custody of the inspector at all times.

§ 70.192 *Determining compliance with § 70.191.* A qualified veterinary supervisor of the poultry grading service of the Administration shall investigate the manner of operation of the inspection system to determine the adequacy of the post-mortem examination and the compliance with the requirements contained in §§ 70.190 to 70.192 prior to approving the official plant for the grading of ready-to-cook poultry. This supervisor as well as any official graders who may be stationed in the official plant shall periodically observe the inspection operations in the official plant to determine whether the requirements of §§ 70.190 to 70.192 are being met. If at any time the inspector fails to enforce the requirements as set forth in the inspection system, grading service may be withdrawn from the official plant.

Grading Certificates

§ 70.200 *Forms.* Grading certificates (including appeal grading certificates and regrading certificates) shall be issued on forms approved by the Administrator.

§ 70.201 *Issuance and disposition.* (a) Each grader shall issue a grading certificate covering each product graded.

(b) The original of each grading certificate, issued pursuant to §§ 70.200 to 70.202, and not to exceed three of the copies thereof, shall, immediately upon issuance, be delivered or mailed to the applicant or person designated by him. One copy shall be filed in the office of grading which serves the area in which the grading service was performed, and the remaining copies shall be disposed of in such manner as the Administrator may approve. Additional copies of any such certificate may be furnished to any interested party as provided in § 70.135.

§ 70.202 *Advance information.* Upon the request of an applicant, all or part of the contents of any grading certificate issued to such applicant may be telephoned or telegraphed to him, or to any person designated by him, at his expense.

Regrading

§ 70.210 *Application for regrading of a graded product.* An application for a regrading of any previously graded product may be made at any time by any interested party, and such application shall clearly state the reasons for requesting the regrading. The provisions of the regulations relative to grading service shall apply to regrading service.

§ 70.211 *Regrading certificates.* Immediately after a regrading has been completed, a regrading certificate shall be issued showing the results of such regrading; and such certificate shall thereupon supersede, as of the time of issuance of the regrading certificate, the grading certificate previously issued for the product involved. Each regrading certificate shall clearly set forth the number and date of the grading certificate which it supersedes. The provisions of §§ 70.200 to 70.202 shall, whenever applicable, also apply to regrading certificates except that copies of such regrading certificates shall be furnished each interested party of record.

Appeal Grading

§ 70.220 *Application for appeal grading.* An application for an appeal grading may be made by any interested party who is dissatisfied with any determination stated in any grading or regrading certificate only if the identity of the product, or representative sample thereof, on the basis of which a determination was made has not been lost, and such application for the appeal grading is made within two days following the day on which the grading was performed. Upon approval by the Administrator, the time within which an application for an appeal grading may be made may be extended.

§ 70.221 *How to obtain appeal grading.* Appeal grading may be obtained by

filing a request therefor (a) with the Administrator, (b) with the grader who issued the grading certificate with respect to which the appeal grading is requested, (c) with the immediate superior of such grader, or (d) with the officer in charge of any office of grading. The application for appeal grading shall clearly state the reasons therefor and may be accompanied by a copy of the aforesaid grading certificate or any other information the applicant may have secured regarding the product, at the time of grading, from which the appeal is requested. Such application may be made orally (in person or by telephone) in writing, or by telegraph. If made orally, written confirmation may be required.

§ 70.222 *Record of filing time.* A record showing the date and hour when each such application for appeal grading is received shall be maintained in such manner as the Administrator may prescribe.

§ 70.223 *When an application for an appeal grading may be refused.* Notwithstanding the provisions of § 70.220, if it appears to the Administrator that the reasons for an appeal grading are frivolous or not substantial, or that the quality or condition of the products has undergone a material change since the grading from which the appeal is made, or the identical products that were examined to ascertain the grade thereof cannot be made accessible for reexamination, or the act or regulations in this part have not been complied with, the Administrator may refuse the applicant's request for the appeal grading; and such applicant shall be promptly notified of the reason for such refusal.

§ 70.224 *When an application for appeal grading may be withdrawn.* An application for appeal grading may be withdrawn by the applicant at any time before the appeal grading is made upon payment, by the applicant, of all expenses incurred by the Administration in connection with such application.

§ 70.225 *Who shall perform the appeal grading.* An appeal grading of any graded product shall be made by any grader (other than the one from whose grading the appeal is made) designated for this purpose by the Administrator; and, whenever practicable, such appeal grading shall be conducted jointly by two such graders.

§ 70.226 *Appeal grading by immediate superior.* Notwithstanding the provisions of §§ 70.220 to 70.223, whenever the immediate superior of a grader has evidence that such grader incorrectly graded a product, such superior shall immediately make a regrading of the product.

§ 70.227 *Order of performance of appeal gradings.* Appeal gradings shall be performed, insofar as practicable, in the order in which applications therefor are received; and any such application may be given precedence pursuant to § 70.47.

§ 70.228 *Appeal grading certificates.* Immediately after an appeal grading has been completed, an appeal grading cer-

tificate shall be issued showing the results of such appeal grading. Such certificate shall thereupon supersede the grading certificate for the product involved and such supersedure shall be effective as of the time of issuance of the grading certificate with respect to which the appeal is made. Each appeal grading certificate shall clearly set forth the number and the date of the grading certificate which it supersedes. The provisions of §§ 70.200 to 70.202 shall, whenever applicable, also apply to appeal grading certificates except that copies of such appeal grading certificates shall be furnished each interested party of record.

Superseded Certificates

§ 70.235 *Superseded certificates.* Whenever any grading certificate is superseded in accordance with the regulations in this part such certificate shall become null and void as of the effective time of supersedure. If the original and all copies of such superseded certificate are not delivered to the person issuing the regrading certificate or appeal grading certificate, he shall notify such persons as he considers necessary to prevent fraudulent use of the superseded certificate.

SANITARY REQUIREMENTS

General

§ 70.240 *Minimum standards for sanitation, facilities, and operating procedures in official plants.* Except as otherwise provided in this part the provisions of §§ 70.240 to 70.287 shall apply with respect to grading service and inspection service in all official plants other than with respect to the grading of live poultry. The table set forth in § 70.287 indicates some of the types of material which may be used in the construction of equipment, utensils and facilities for use in the plant.

§ 70.241 *Authority of Administrator to amend minimum standards for sanitation, facilities, and operating procedures in official plants.* The Administrator is authorized to amend the provisions in §§ 70.240 to 70.287 and such amended provisions shall be applicable to official plants.

Buildings and Plant Facilities

§ 70.250 *Buildings.* The building shall be of sound construction and kept in good repair, and shall be of such construction as to prevent the entrance or harboring of vermin.

(a) *Outside openings.* (1) The doors, windows, skylights and other outside openings of the plant, except receiving rooms and feeding rooms, shall be protected by properly fitted screens or other suitable devices, against the entrance of flies and other insects.

(2) Outside doors, except in receiving rooms and feeding rooms, shall be so hung that not over $\frac{1}{4}$ inch clearance remains when closed. Screen doors shall open toward the outside of the building. Doors shall be provided with self-closing devices where necessary to prevent the entry of vermin into processing and storage rooms.

§ 70.251 *Rooms and compartments.* Rooms and compartments used for edible products shall be separate and distinct from inedible products departments and from rooms where live poultry is held or slaughtered. Separate rooms shall be provided when required for conducting processing operations in a sanitary manner and all rooms shall be of sufficient size to permit the installation of the necessary equipment for processing operations and the conduct of such operations in a sanitary manner.

(a) *Rooms for separate operations.* The official plant should have separate rooms for each of the following operations depending upon the various types of operations conducted; but in no case shall the receiving or feeding of live poultry or killing operations be permitted in rooms in which eviscerating operations are performed:

(1) The receiving and feeding of live poultry.

(2) Killing, scalding, and roughing operations.

(3) Pinning, finishing, and chilling and packing operations for dressed poultry.

(4) Evisceration operations. Final pinning of dressed poultry and chilling and packaging of edible products may be performed in this room. Openings in walls for conveyor lines are permissible.

(5) Inedible products departments.

(6) Refuse rooms. Separate refuse room, or other equally adequate facilities, shall be required in eviscerating plants and in other plants where accumulations of refuse occur.

(b) *Rooms for holding carcasses for further inspection.* Rooms and compartments in which carcasses or parts thereof are held for further inspection shall be in such numbers and such locations as the needs of the inspection in the plant may require. These rooms and compartments shall be equipped with locks and keys and the keys shall not leave the custody of the inspector in charge of the plant. All such rooms and compartments shall be marked conspicuously with the word "retained" in letters not less than 2 inches high.

(c) *Coolers and freezers.* Coolers and freezers of adequate size and capacity shall be provided to reduce the internal temperature of dressed poultry and ready-to-cook poultry prepared and otherwise handled in the plant to 36° F within 24 hours unless other cooling facilities are available.

(d) *Refuse rooms.* Refuse rooms shall be entirely separate from other rooms in the plant, shall have tight fitting doors and be properly ventilated.

(e) *Storage and supply rooms.* The storage and supply rooms shall be in good repair, kept dry, and maintained in a sanitary condition.

(f) *Boiler room.* The boiler room shall be a separate room, if necessary, to prevent its being a source of dirt and objectionable odors entering any room where dressed poultry or edible products are prepared, processed, handled, and stored.

(g) *Inspector's office.* Furnished office space, including, but not being limited to, light, heat and janitor service

shall be provided rent free in the official plant, for the exclusive use for official purposes of the inspector or grader and the Administration. The room or rooms set apart for this purpose must meet the approval of the regional supervisor and be conveniently located, properly ventilated and provided with lockers or cabinets suitable for the protection and storage of supplies and with facilities suitable for inspectors and graders to change clothing.

(h) *Toilet rooms.* Toilet rooms, opening directly into rooms where poultry products are exposed shall have self-closing doors and shall be ventilated to the outside of the building.

§ 70.252 *Floors, walls, ceilings, etc.* The floors, walls, ceilings, partitions, posts, doors and other parts of all compartments shall be of such material, construction, and finish as will make them susceptible of being readily and thoroughly cleaned.

(a) *Floors.* (1) All floors, except those in receiving rooms and feeding rooms and floors which are kept dry, shall be constructed of hardened concrete, or of tile laid closely together with impervious joint material, or of other similar impervious material and kept in good repair.

(2) The floors in killing, ice-cooling, ice-packing, and eviscerating rooms shall be graded to permit run-off with no standing water and in new construction and renovated plants the pitch shall be not less than $\frac{1}{4}$ inch per foot to drains.

(3) In new construction the junction of the wall with the floor shall be coved on a radius of not less than 2 inches and the window ledges shall be set at an angle of approximately 45°, and all upper horizontal surfaces shall be kept to a minimum.

(b) *Ceilings and walls.* (1) Ceilings and walls in rooms and compartments where exposed edible products are processed, handled or stored shall have tiled, enameled, or other smooth surface impervious to moisture.

(2) Cooler and freezer rooms shall have interior surfaces impervious to moisture so as to permit thorough cleaning.

(c) *Blood disposal.* (1) Adequate facilities shall be provided for the disposal of blood in a sanitary manner.

(2) When bleeding troughs are used they shall be long enough to catch the blood during the bleeding process and shall be cleaned daily. Such troughs shall be installed so as to pitch at least $\frac{1}{2}$ inch per foot toward a smooth metal catch basin or basins, of sufficient capacity for a day's operation at peak production, or shall be flushed continuously.

§ 70.253 *Drainage and plumbing.* There shall be an efficient drainage and plumbing system for the plant and premises.

(a) *Drains and gutters.* All drains and gutters shall be properly installed with approved traps and vents. The drainage and plumbing system must permit the quick run-off of all water from plant buildings, and surface water around the plant and on the premises; and all such water shall be disposed of in

such a manner as to prevent a nuisance or health hazard.

(b) *Sewerage and plant wastes.* (1) The sewerage system shall have adequate slope and capacity to remove readily all waste from the various processing operations and to minimize, and if possible to prevent stoppage and surcharging of the system.

(2) Grease traps which are connected with the sewerage system shall be suitably located but not near any edible products department or in any area where products are unloaded from, or loaded into, vehicles. To facilitate cleaning such traps shall have inclined bottoms and be provided with suitable covers.

(3) In new construction, toilet soil lines shall be separate from house drainage lines to a point outside the buildings; and drainage from toilet bowls and urinals shall not be discharged into a grease catch basin.

(4) All floor drains shall be equipped with traps, constructed so as to minimize clogging; and the plumbing shall be installed so as to prevent sewerage from backing up and from flooding the floor.

(5) Floor drainage lines should be of metal and at least 4 inches in diameter and open into main drains of at least 6 inches in diameter and shall be properly vented to the outside air.

(6) In new construction, valley or gutter drains shall have concave bottoms or the junctions of the sides and the bottoms shall be covered.

(7) Where refrigerators are equipped with drains, such drains should be properly trapped and should discharge through an air gap into the sewer system. All new installations and all replacement of refrigerators equipped with drains shall meet these requirements.

§ 70.254 Water supply. The water supply shall be ample, clean, and potable with adequate pressure and facilities for its distribution in the plant, and its protection against contamination and pollution.

(a) Hot water at a temperature not less than 180° F. shall be available for sanitation purposes.

(b) Hose connections with steam and water mixing valves or hot water hose connections shall be provided at convenient locations throughout the plant for cleaning purposes.

(c) The refuse rooms shall be provided with adequate facilities for washing refuse cans and other equipment in the rooms; and the rooms, cans, and equipment shall be cleaned after each day's use.

§ 70.255 Lavatory accommodations. Modern lavatory accommodations, and properly located facilities for cleaning utensils and hands shall be provided.

(a) Adequate lavatory and toilet accommodations, including, but not being limited to, running hot water and cold water, soap, and towels, shall be provided. Such accommodations shall be in or near toilet and locker rooms and also at such other places in the plant as may be essential to the cleanliness of all personnel handling products.

(b) Sufficient metal containers shall be provided for used towels and other wastes.

(c) The water supply in all hand washing facilities serving areas where dressed poultry and edible products are prepared shall be operated by other than hand operated controls or shall be of a continuous flow type.

(d) Durable signs shall be posted conspicuously in each toilet room and locker room directing employees to wash their hands before returning to work.

(e) Adequate toilet facilities shall be provided and the following formula shall serve as a basis for determining the adequacy of such facilities:

Persons of same sex:	Toilet bowls required
1 to 15, inclusive.....	1
16 to 35, inclusive.....	2
36 to 55, inclusive.....	3
56 to 80, inclusive.....	4
For each additional 30 persons in excess of 80.....	1

¹ Urinals may be substituted for toilet bowls but only to the extent of one-third of the total number of bowls stated.

§ 70.256 Lighting and ventilation. There shall be ample light, either natural or artificial or both, of good quality and well distributed, and sufficient ventilation for all rooms and compartments to insure sanitary conditions.

(a) All rooms in which poultry is killed, eviscerated, or otherwise processed shall have at least 10 foot candles of light intensity on all working surfaces except that at the grading and inspection stations such light intensity shall be of 50 foot candles. In all other rooms there shall be provided at least 4 foot candles of light intensity when measured at a distance of 30 inches from the floor.

(b) All rooms shall be adequately ventilated to eliminate objectionable odors and minimize moisture condensation.

Equipment and Utensils

§ 70.270 Equipment and utensils. Equipment and utensils used for the preparation, processing, or otherwise handling any product in the plant shall be suitable for the purpose intended and shall be of such material and construction as will facilitate their thorough cleaning and insure cleanliness in the preparation and handling of products. Insofar as it is practical, equipment and utensils shall be made of metal or other impervious material. Trucks and receptacles used for handling inedible products shall be of similar construction and shall be conspicuously and distinctly marked and shall not be used for handling any edible products.

(a) *Batteries.* Batteries should be constructed entirely of metal and have metal dropping pans so as to permit proper and complete washing and cleaning. Batteries that are not made entirely of metal shall be replaced with metal batteries whenever replacement becomes necessary.

(b) *Refuse containers.* Metal refuse containers with covers shall be provided; and such containers shall be kept covered.

(c) *Scalding equipment.* (1) Scalding equipment, tank or spray type, shall

be made of metal and have smooth surfaces, and be of such construction as to permit proper and complete washing and cleaning.

(2) The scalding tanks, when used, shall be so constructed as to prevent contamination of potable water lines and to permit water to enter continuously at the rate of ¼ gallon per bird per minute and to flow out through an overflow.

(3) The overflow outlets in scalding equipment shall be of sufficient size to permit feathers and water to be carried off.

(4) The overflow, draw-off valves, and sediment basin drain shall discharge into a floor or valley drain, or onto the floor in close proximity to a floor or valley drain.

(d) *Mechanical pickers.* When necessary, safety guards shall be installed around moving machine parts of mechanical pickers, and such guards shall be of such construction as not to be difficult or laborious to remove or to keep clean. Sheet metal or metal grills fastened down with sufficient bolts and wing nuts are preferable.

(e) *Wax flushing.* When wax dipping is used, metal troughs shall be provided to catch the wax removed from the dipped poultry. Acceptable facilities and methods shall be employed in reclaiming the wax.

(f) *Ice chilling vats.* (1) Chilling vats or tanks used for chilling dressed poultry should be, and all replacements thereof and all chilling vats or tanks used for chilling ready-to-cook poultry shall be, made of metal or other hard-surfaced impervious material.

(2) Ice shovels shall be smooth surfaced and made of metal.

(g) *Grading and packing bins.* Where grading bins are used for poultry, they shall be of sufficient number and capacity to handle the grading adequately without the use of makeshift bins; and all dressed poultry shall be kept off the floor. Grading bins may be made of metal or enameled wood and shall be constructed and maintained in such a manner as to allow easy and thorough cleaning. All replacements of such bins shall, however, be of metal.

(h) *Rooms.* Except as otherwise provided herein, all equipment and utensils used in the killing, roughing, pinning, chilling and packing rooms shall be of metal or other impervious material and constructed so as to permit proper and complete cleaning.

(i) *Conveyors.* (1) Conveyors used in the preparation of ready-to-cook poultry shall be of metal or other acceptable material and of such construction as to permit thorough and ready cleaning and easy identification of viscera with its carcass and so designed as will present each carcass or all parts thereof in a way that will permit adequate and efficient inspection.

(2) Overhead conveyors shall be so constructed and maintained that they will not allow grease, oil, or dirt to accumulate on the drop chain or shackle which shall be of non-corrosive metal.

(3) Non-metallic belt-type conveyors used in moving edible products shall be of water-proof composition.

(4) When individual trays or other acceptable equipment are not used during eviscerating operations, each carcass shall be suspended and a metal trough shall be provided beneath the conveyor to extend from the point where the carcass is opened to the point where the viscera has been completely removed, and such troughs shall be flushed continuously by a water spray.

(j) *Tables.* Inspection, eviscerating, and cutting tables shall be made of metal and have coved corners and be so constructed and placed to permit thorough cleaning.

(k) *Plants lacking conveyors.* In plants where no conveyors are used, each carcass shall be eviscerated in an individual metal tray of seamless construction.

(l) *Water spray washing equipment.* Water spray washing equipment with sufficient water pressure to thoroughly and efficiently wash carcasses shall be used for washing carcasses inside and out.

(m) *Waste receptacles.* Watertight metal receptacles shall be used for entrails and other waste resulting from preparation of eviscerated poultry.

(n) *Trucks and receptacles for diseased carcasses.* Watertight trucks and receptacles for holding or handling diseased carcasses and diseased parts of carcasses shall be so constructed as to be readily and thoroughly cleaned; such trucks and receptacles shall be marked in a conspicuous manner with the word "condemned" in letters not less than 2 inches high and, when required by the inspector in charge, shall be equipped with facilities for locking and sealing.

(o) *Freezing rooms.* Freezing rooms should be adequately equipped to freeze ready-to-cook poultry solid in less than 60 hours. Freezing rooms shall be equipped with floor racks or pallets and fans to insure air circulation.

(p) *Cooling racks.* Cooling racks should be made of metal and be readily accessible for thorough washing and cleaning. All replacements of cooling racks shall be made of metal.

(q) *Trucks and receptacles for carcasses held for further inspection.* Trucks and receptacles in which carcasses or parts thereof are held for further inspection shall be in such numbers and in such locations as the needs of the inspection in the plant may require. They shall be equipped for locking by means of lock and key and the key shall not leave the custody of the inspector in charge of the plant. Such trucks and receptacles shall be marked conspicuously with the word "retained" in letters not less than 2 inches high.

§ 70.271 *Accessibility.* All equipment shall be so placed as to be readily accessible for all processing and cleaning operations.

(a) *Mechanical pickers.* When used in the plant, mechanical pickers shall be so installed as to be accessible for thorough cleaning and removal of the accumulation of feathers.

§ 70.272 *Restrictions on use.* Equipment and utensils used in the official plant shall not be used outside the official

plant except under such conditions as may be prescribed or approved by the national supervisor, and equipment used in the preparation of any article (including, but not being limited to, animal food) from inedible material shall not be used outside of the inedible products department except under such conditions as may be prescribed or approved by the national supervisor.

Maintenance of Sanitary Conditions and Precautions Against Contamination of Products

§ 70.280 *General.* The premises shall be kept free from refuse, waste materials, and all other sources of objectionable odors and conditions.

§ 70.281 *Cleaning of rooms and compartments.* Rooms, compartments, or other parts of the official plant in which products are handled and kept shall be kept clean and in sanitary condition.

(a) All feathers, blood, offal, birds or parts of birds too severely damaged to be salvaged, and all discarded containers and other materials shall be completely disposed of daily.

(b) All windows, doors, and light fixtures in the official plant shall be kept clean.

(c) All docks and rooms shall be kept clean and free from debris and unused equipment and utensils.

(d) Live poultry receiving docks and receiving rooms shall be of such construction as readily to permit their thorough cleaning.

(e) Floors in feeding rooms shall be cleaned with such regularity as may be necessary to maintain them in a sanitary condition.

(f) The killing, roughing, and pinning room shall be kept clean and free from offensive odors at all times.

(g) The walls, floors, and all equipment and utensils used in the killing, roughing and pinning room shall be thoroughly cleaned after each day's operation.

(h) The floors in the killing, roughing, and pinning room shall be cleaned frequently during roughing and finishing operations and be kept reasonably free from accumulated blood, feathers, manure, water, and dirt.

(i) All equipment in the toilet and locker room, as well as the room itself, shall be kept clean, sanitary, and in good repair.

(j) Cooler and freezer rooms shall be free from objectionable odors of any kind and shall be maintained in a sanitary condition (including, but not being limited to, the prevention of drippings from refrigerating coils onto products).

§ 70.282 *Cleaning of equipment and utensils.* Equipment and utensils used for preparing or otherwise handling any product shall be kept clean and in a sanitary condition and in good repair.

(a) Batteries and dropping pans shall be cleaned regularly and the manure removed from the plant daily.

(b) The feed mixer shall be cleaned daily.

(c) Scalding tanks shall be completely emptied and thoroughly cleaned as often

as may be necessary but not less frequently than once a day.

(d) Ice shovels shall be kept clean, free of corrosion, and shall be stored off the floor.

(e) All equipment and utensils used in the killing, roughing, and pinning rooms shall be thoroughly washed and cleaned after each day's operation. The chilling and packing room and equipment and utensils used therein shall be maintained in a clean and sanitary condition.

(f) Graders' and packers' gloves and grading bins shall be washed daily and used only for grading or packing, as the case may be.

(g) Chilling vats or tanks shall be emptied and rinsed after each use. They shall be thoroughly cleaned once daily and after each cleaning operation they shall be sanitized with such compounds or by such methods as may be approved or prescribed by the Administrator.

(h) Thawing. When frozen poultry is to be defrosted in water, adequate facilities (tanks, vats, or racks) shall be provided, including continuously running tap water of sufficient volume for thawing such poultry. Such poultry shall not be thawed in still water and the thawing tanks shall be emptied and rinsed after each use. The tanks shall be thoroughly cleaned once daily and after each cleaning operation they shall be sanitized with such compounds or by such methods as may be prescribed or approved by the Administrator. If water is heated it shall not be heated above 70° F. Thawing tanks shall be equipped with properly installed overflow pipes to discharge over a floor drain or a valley drain. Where mechanical devices are not used for removing thawed carcasses from thawing tanks, the tanks shall be of a size as will enable employees to remove poultry without getting inside the tanks.

(i) When synchronized overhead conveyors and tray conveyors are used, the trays shall be completely washed and sanitized after being automatically emptied of inedible viscera.

(j) When a conveyor tray operation is used, such trays shall be of metal of seamless construction and shall be completely washed and sanitized after each use.

(k) Tables, shelves, bins, trays, pans, knives, and all other tools and equipment used in the preparation of ready-to-cook poultry shall be kept clean and sanitary at all times. Cleaned equipment and utensils shall be drained on racks and shall not be nested.

(l) Drums, cans, tanks, vats, and other receptacles used to hold or transport dressed poultry, or eviscerated poultry shall be kept in a clean and sanitary condition.

§ 70.283 *Operations and procedures.* Operations and procedures involving the preparation, storing, or handling of any product shall be strictly in accord with clean and sanitary methods.

(a) There shall be no handling or storing of materials which create an objectionable condition in rooms, compartments, or other places in the plant where

any product is prepared, stored, or otherwise handled.

(b) The pinning and finishing operations shall be performed in a part of the room that is away from the killing and roughing operations.

(c) Blood from the killing operation shall be confined to a relatively small area and kept from being splashed about the room.

(d) In finishing and cleaning dressed poultry, the carcass shall be singed, feed shall be removed from the crop, and the fecal material in the cloaca shall be removed by venting, and such operations shall be completed prior to or during the final washing but prior to chilling and packaging of such dressed poultry. Notwithstanding the foregoing, dressed poultry which is to be eviscerated in an official plant within 72 hours from time of slaughter may, when approved by the Administration, be transferred by conveyor or operational type container or other approved means to such official plant prior to removal of the feed in the crop.

(e) The head of each dressed poultry carcass shall be washed thoroughly to remove feed from the mouth and blood from the head and mouth.

(f) In the final washing the carcass shall be passed through a system of sprays providing an abundant supply of fresh clean water either under pressure or scrubbing action.

(g) Grading and packaging. Dressed poultry may be graded and packaged in the killing, roughing, pinning, chilling, and packing room; however, such poultry shall be graded and packed in an area of the room which is well isolated from the killing and roughing operation.

(h) The floors in the eviscerating room shall be kept clean and reasonably dry during eviscerating operations and free of all refuse.

(i) Conveyors shall be operated at such speeds as will permit a sanitary eviscerating operation and will permit adequate inspection for condition and wholesomeness.

(j) Mechanized packaging equipment shall be maintained in good sanitary condition.

(k) All offal resulting from the eviscerating operation shall be removed as often as necessary to prevent the development of a nuisance.

(l) Paper and other material used for lining barrels or other containers in which products are packaged shall be of such kinds as do not tear readily during use, but remain intact when moistened by the product.

(m) Protective coverings shall be used for the product in the plant and as it is distributed from the plant, as will afford adequate protection for the product against contamination by any foreign substance (including, but not being limited to, dust, dirt, and insects) considering the means intended to be employed in transporting the product from the plant.

(n) Containers to be used for packaging dressed poultry and ready-to-cook poultry shall be clean, free from objectionable substances or odors and of sufficient strength and durability to ade-

quately protect the product during normal distribution.

(o) Refuse may be moved directly to loading docks only for prompt removal.

(p) Cleanliness and hygiene of personnel. (1) All employees coming in contact with dressed poultry, exposed edible products, or edible products handling equipment shall wear clean garments and shall keep their hands clean at all times while thus engaged.

(2) Hands of employees handling dressed poultry or edible products or edible products handling equipment shall be free of infected cuts, boils, and open sores at all times while thus engaged.

(3) Every person after each use of toilet or change of garments shall wash his hands thoroughly before returning to duties that require the handling of dressed poultry or edible products, or containers therefor, or edible products handling equipment.

(4) Neither smoking nor chewing of tobacco shall be permitted in any room where exposed edible products are prepared, processed, or otherwise handled.

§ 70.284 *Temperatures and cooling and freezing procedures.* Temperatures and procedures which are necessary for cooling and freezing poultry shall be in accordance with sound operating practices which insure the prompt removal of the animal heat and as will maximize the preservation of the quality and condition of the poultry.

(a) *Cooling.* All dressed poultry and ready-to-cook poultry that is prepared in the official plant shall be cooled immediately after processing. Such poultry shall be cooled to an internal temperature of 40° F. or less, within 24 hours from the time of slaughter. If such poultry is to be shipped from the plant in packaged form, the poultry shall be cooled to and maintained at a temperature of 40° F. or less prior to shipment from the plant. However, when approved by the Administration, poultry may be shipped from the plant prior to cooling to 40° F. or less, if such poultry is shipped to and placed in a freezer promptly.

(b) *Ice chilling.* (1) Only ice manufactured or produced from potable water may be used for ice chilling. The ice shall be handled and stored in a sanitary manner. If of block-type, the ice shall be washed by spraying with clean water before crushing. Metal ice crushers shall be washed at least once daily.

(2) Enough clean crushed ice shall be used to maintain a temperature in vats or tanks under 40° F. at all times during chilling. Dressed poultry carcasses weighing less than 8 pounds should be chilled to 40° F. or below in less than 4 hours whereas carcasses weighing more than 8 pounds should be chilled to 40° F. or below in less than 8 hours. In order to facilitate continuous processing operations dressed poultry may be held overnight in chilling tanks provided it is processed and packaged at the resumption of operations the following morning. If such poultry is to be held in chilling tanks for longer periods it shall be properly repacked with crushed ice in clean tanks which are continually drained and during this holding period the internal

temperature of the dressed poultry shall be maintained at or below 40° F.

(c) *Air chilling.* In air chilling, dressed poultry shall be passed through a spray of clean water immediately following the removal of the feathers, and then hung on racks. Thereupon the racks of dressed poultry shall be placed in a refrigerated room with moderate air movements and a temperature which will reduce the internal temperature of the carcass to 40° F. or less, within 24 hours.

(d) *Freezing.* (1) When dressed poultry is packaged in bulk or shipping containers, the carcasses should be individually wrapped or packaged in water-vapor resistant cartons or the containers should be lined with heavy water-vapor resistant paper so as to assure adequate overlapping of the lining to completely surround the carcasses and to permit unsealed closure or sealing in such a manner that water-vapor loss from the product is considerably retarded or prevented. The dressed poultry should receive initial rapid freezing under such packaging, temperature, air circulation, and stacking conditions which will result in freezing the carcasses solid in less than 60 hours. Any carcass weighing less than 8 pounds should freeze solid in from 30 to 40 hours, whereas a carcass weighing more than 8 pounds should freeze solid in from 48 to 60 hours. (The approximate highest temperatures which will attain this result under average to most favorable conditions, are -10° F. with circulated air and -20° F. with still air; however, freezing temperatures of -20° F. to -40° F. are desirable.)

(2) Frozen dressed poultry should be stored at 0° F. or below, with temperature maintained as constant as possible.

(e) *Refrigeration of packaged poultry.* Immediately after packaging, all dressed poultry and ready-to-cook poultry other than that which is ice-packed or shipped from the plant in a refrigerated carrier should be moved into the freezer. If such poultry is to be held in the plant for longer than 24 hours it should be held at not above 36° F.

(f) *Ice-pack containers.* When poultry is packed in ice in barrels or other containers the barrels and containers shall be covered and shall have an adequate number of drain holes to permit water to drain out.

(g) *General.* The provisions of paragraphs (b) and (d) of this section shall be applicable to ready-to-cook poultry.

§ 70.285 *Vermin.* Every practicable precaution shall be taken to exclude flies, rats, mice, and other vermin from the official plant. Dogs, cats, and other pets shall be excluded from rooms where edible products and dressed poultry are processed, handled and stored.

§ 70.286 *Exclusion of diseased persons.* No person affected with any communicable disease (including, but not being limited to, tuberculosis) in a transmissible stage shall be permitted in any room or compartment where exposed or unpacked dressed poultry or edible products are prepared, processed, or otherwise handled.

§ 70.287 Table showing types of materials.

Equipment, utensils, and facilities	Iron	Rubber	Concrete	Stainless steel and monel metal	Aluminum	Galvanized iron	Copper (tin plated)	Porcelain or glazed tile
Batteries	---	---	---	A	A	A	---	---
Overhead conveyors	A	---	---	A	A	A	---	---
Conveyor track	A	---	---	A	A	A	---	---
Shackle chain	---	---	---	A	A	A	---	---
Shackles	---	---	---	A	A	A	---	---
Blood trough	A	---	A	A	A	A	---	---
Scalding vat	A	---	A	A	A	A	---	---
Mechanical pickers	A	A	---	A	A	A	---	---
Mechanical scrubber	A	A	---	A	A	A	---	---
Wax dipping tank	A	---	---	A	A	A	---	---
Trough for catching wax	A	---	---	A	A	A	---	---
Water-spray cooling chamber	---	---	---	A	A	A	---	---
Opening trough	---	---	---	A	A	A	---	---
Eviscerating pans	---	---	---	A	A	A	---	---
Inspection table (those parts which come in contact with product)	---	---	---	A	A	A	---	---
Eviscerating trough	---	---	---	A	A	A	---	---
Framework (of equipment)	A	---	---	A	A	A	---	---
Inside and outside washer	---	A	---	A	A	A	---	A
Glizzard, heart, and liver trimming tables	---	---	---	A	A	A	---	---
Defrosting trucks	---	---	---	A	A	A	---	---
Defrosting tanks	---	---	---	A	A	A	---	A
Cooling racks	---	---	---	A	A	A	---	---
Tanks or vats and other equipment used for cooling products	---	---	A	A	A	A	---	---
Above-the-floor grease traps	---	---	---	A	A	A	---	---
Utensils for handling edible products	---	---	---	A	A	A	---	---
Boning and cooling tables, cutting surfaces	---	---	---	A	A	A	---	---
Cooking kettles	A	---	---	A	A	A	---	A

SUBPART B—UNITED STATES CLASSES, STANDARDS, AND GRADES FOR POULTRY

UNITED STATES CLASSES OF LIVE POULTRY, DRESSED POULTRY, AND READY-TO-COOK POULTRY

§ 70.300 *General*. The provisions of §§ 70.300 to 70.306 apply to live poultry, dressed poultry, and individual carcasses of ready-to-cook poultry in determining the kind of poultry and its class. The kinds of poultry are as follows: Chickens, turkeys, ducks, geese, guineas, and pigeons.

§ 70.301 *Chickens*. The following are the various classes of chickens:

(a) *Broiler or fryer*. A broiler or fryer is a young chicken (usually under 16 weeks of age) of either sex, that is tender-meated with soft, pliable, smooth-textured skin and flexible breastbone cartilage.

(b) *Roaster*. A roaster is a young chicken (usually under 8 months of age), of either sex, that is tender-meated with soft, pliable, smooth-textured skin and breastbone cartilage that is somewhat less flexible than that of a broiler or fryer.

(c) *Capon*. A capon is an unsexed male chicken (usually under 10 months of age) that is tender-meated with soft, pliable, smooth-textured skin.

(d) *Stag*. A stag is a male chicken (usually under 10 months of age) with coarse skin, somewhat toughened and darkened flesh, and considerable hardening of the breastbone cartilage. Stags show a condition of fleshing and a degree of maturity intermediate between

that of a roaster and a cock or old rooster.

(e) *Hen or stewing chicken or fowl*. A hen or stewing chicken or fowl is a mature female chicken (usually more than 10 months old) with meat less tender than that of a roaster, and non-flexible breastbone.

(f) *Cock or old rooster*. A cock or old rooster is a mature male chicken with coarse skin, toughened and darkened meat, and hardened breastbone.

§ 70.302 *Turkeys*. The following are the various classes of turkeys:

(a) *Fryer or roaster*. A fryer or roaster is a young immature turkey (usually under 16 weeks of age) of either sex, that is tender-meated with soft, pliable, smooth-textured skin, and flexible breastbone cartilage.

(b) *Young hen turkey*. A young hen turkey is a young female turkey (usually under 8 months of age) that is tender-meated with soft, pliable, smooth-textured skin, and breastbone cartilage that is somewhat less flexible than in a turkey fryer or roaster.

(c) *Young tom turkey*. A young tom turkey is a young male turkey (usually under 8 months of age) that is tender-meated with soft, pliable, smooth-textured skin and breastbone cartilage that is somewhat less flexible than in a turkey fryer or roaster.

(d) *Hen turkey*. A hen turkey is a fully matured female turkey (usually over 10 months of age) that is less tender-meated than a young hen turkey, has a hardened breastbone, and may have coarse-textured skin and patchy areas of surface fat.

(e) *Tom turkey*. A tom turkey is a mature male turkey (usually over 10 months of age) with coarse skin, toughened flesh, and hardened breastbone.

§ 70.303 *Ducks*. The following are the various classes of ducks:

(a) *Broiler duckling or fryer duckling*. A broiler duckling or fryer duckling is a young duck (usually under 8 weeks of age) of either sex, that is tender-meated and has a soft bill and soft windpipe.

(b) *Roaster duckling*. A roaster duckling is a young duck (usually under 16 weeks of age) of either sex, that is tender-meated and has a bill that is not completely hardened and a windpipe that is easily dented.

(c) *Mature duck or old duck*. A mature duck or an old duck is a duck (usually over 6 months of age) of either sex, with toughened flesh, hardened bill, and hardened windpipe.

§ 70.304 *Geese*. The following are the various classes of geese:

(a) *Young goose*. A young goose may be of either sex, is tender-meated, and has a windpipe that is easily dented.

(b) *Mature goose or old goose*. A mature goose or old goose may be of either sex and has toughened flesh and hardened windpipe.

§ 70.305 *Guineas*. The following are the various classes of guineas:

(a) *Young guinea*. A young guinea may be of either sex and is tender-meated.

(b) *Mature guinea or old guinea*. A mature guinea or an old guinea may be of either sex and has toughened flesh.

§ 70.306 *Pigeons*. The following are the various classes of pigeons:

(a) *Squab*. A squab is a young, immature pigeon of either sex, and is extra tender-meated.

(b) *Pigeon*. A pigeon is a mature pigeon of either sex, with coarse skin and toughened flesh.

UNITED STATES STANDARDS FOR QUALITY OF LIVE POULTRY

General

§ 70.320 *General*. (a) The United States standards for quality of individual live birds contained in §§ 70.320 to 70.328 are applicable only to poultry of the kinds and classes set forth in §§ 70.300 to 70.306.

(b) Birds showing evidence of any disease or other condition which may render them unwholesome or unfit for human food shall not be included in any of the quality designations specified in §§ 70.320 to 70.328.

(c) The following factors are considered in ascertaining the quality of an individual bird: (1) Health and vigor; (2) feathering; (3) conformation; (4) fleshing; (5) fat covering; and (6) the degree of freedom from defects.

Standards of Quality

§ 70.325 *A Quality or No. 1 Quality*. To be of A Quality or No. 1 Quality the live bird:

(a) Is alert, has bright eyes, and is of good health and vigor.

(b) Is well feathered, with feathers showing luster or sheen and quite thoroughly covering all parts of the body; however, there may be a slight scattering of pinfeathers.

(c) Is of normal physical conformation except that it may have a slightly curved breastbone or other slight abnormality in the shape of the breastbone which does not interfere with the normal distribution of the flesh. The bird may also have a slightly curved back. There may be a dent in the breastbone which does not exceed $\frac{1}{8}$ inch in depth except that for turkeys the depth does not exceed $\frac{1}{4}$ inch.

(d) Has a well developed, moderately broad and long breast that is well-fleshed throughout its entire length; and the thighs and back are well covered with flesh according to the age and sex of the bird.

(e) Has the breast, back, hips, and pin bones well covered with fat, except that a fryer (whether chicken or turkey) and a young tom turkey may have only a moderate amount of fat covering these parts, and a hen, stewing chicken, or fowl does not have excessive abdominal fat.

(f) Is free from tears and broken bones; however, it may have slight scratches, slight skin bruises, and slight callouses (i. e., slightly thickened, hardened, and darkened areas of skin over the breastbone) if these conditions do not materially affect the appearance of the bird, especially the breast. It may also have slightly scaly shanks.

§ 70.326 *B Quality or No. 2 Quality.* To be of B quality or No. 2 Quality the live bird:

(a) Is of good health and vigor.

(b) Is fairly well feathered (i. e., some feathers may be lacking on some parts of the body) however, there may be a moderate number of pinfeathers.

(c) Is of normal physical conformation except that it may have a slightly crooked breastbone which does not seriously interfere with the normal distribution of the flesh. It may also have a moderately crooked back and slightly misshapen legs and wings.

(d) Is fairly well fleshed in relation to length and depth of body, with all parts fairly well covered with flesh according to the age and sex of the bird.

(e) Has sufficient coverage of fat on breast and legs to prevent a distinct appearance of the flesh through the skin; however, a hen, stewing chicken, or fowl may have excessive abdominal fat.

(f) Is free from tears, broken bones, severe breast blisters, heavy callouses (i. e., thickened, hardened, and darkened areas of skin over the breastbone) and seriously scaly shanks; however, it may have moderate skin bruises and slight flesh bruises.

§ 70.327 *C Quality or No. 3 Quality.* A live bird that does not meet the requirements of B Quality or No. 2 Quality may be of C Quality or No. 3 Quality and such bird may:

(a) Be lacking in vigor.

(b) Have a large number of pinfeathers over all parts of its body and complete lack of plumage feathers on the back.

(c) Have definite deformities (including, but not being limited to, a crooked breastbone, hunchback, and slight crippling)

(d) Have a poorly developed, narrow breast and thin covering of flesh over all parts of its body.

(e) Have only a small amount of fat in the feather tracts and is completely lacking in fat on back and thighs; and

(f) Have skin bruises, small or moderate flesh bruises, and severe breast blisters; however, it has no broken bones.

§ 70.328 *"Reject."* The term "Reject" is not a standard of quality within the purview of §§ 70.320 to 70.327; however, such term may be used with respect to an individual live bird to indicate that it is affected by, or shows evidence of, any disease or condition (including, but not being limited to, large flesh bruises, severe discolorations, severe injury, and emaciation) which may render the bird unfit for human food.

UNITED STATES GRADES FOR LIVE POULTRY

§ 70.330 *General.* (a) The United States grades for live poultry contained in §§ 70.330 to 70.337 are applicable to live poultry of the kinds and classes set forth in §§ 70.300 to 70.306 and are based upon United States standards for quality as set forth in §§ 70.320 to 70.328.

(b) Birds showing evidence of any disease or other condition which may render them unwholesome or unfit for human food shall not be included in any of the grade designations specified in §§ 70.330 to 70.337.

(c) All terms in the United States standards for quality, as set forth in §§ 70.320 to 70.328 shall, when used in §§ 70.330 to 70.338, have the same meaning as when used in the standards.

Grades

§ 70.335 *U. S. Grade A or U. S. No. 1.* Any lot of live poultry may be designated as U. S. Grade A or U. S. No. 1 if at least 90 percent, by count, of the birds are of A Quality or No. 1 Quality and the remainder are of B Quality or No. 2 Quality. When more than one container comprises the lot, no container shall have more birds of B Quality or No. 2 Quality than that specified in the following table:

[When lot consists of more than 1 container]

Grade	Number of birds in container	Maximum number of B quality or No. 2 quality birds
U. S. Grade A or U. S. No. 1	Less than 10.....	1 bird.
	10 to 15, inclusive....	2 birds.
	16 to 25, inclusive....	3 birds.
	26 to 35, inclusive....	4 birds.
	36 or more.....	5 birds.

§ 70.336 *U. S. Grade B or U. S. No. 2.* Any lot of live poultry may be designated as U. S. Grade B or U. S. No. 2 if at least 90 percent, by count, of the birds are of B Quality or No. 2 Quality, or better, and the remainder are of C Quality, or No. 3 Quality. When more than one container comprises the lot, no container shall have more birds of C Quality or No. 3 Quality than that specified in the following table:

[When lot consists of more than 1 container]

Grade	Number of birds in container	Maximum number of C quality or No. 3 quality birds
U. S. Grade B or U. S. No. 2	Less than 10.....	1 bird.
	10 to 15, inclusive....	2 birds.
	16 to 25, inclusive....	3 birds.
	26 to 35, inclusive....	4 birds.
	36 or more.....	5 birds.

§ 70.337 *U. S. Grade C or U. S. No. 3.* Any lot of live poultry may be designated as U. S. Grade C or U. S. No. 3 if it consists of birds of not less than C Quality or No. 3 Quality.

§ 70.338 *"No Grade"* The term "No Grade" is not a grade within the meaning of §§ 70.330 to 70.337. Such term may be applied to any lot of live poultry if such lot contains any birds of less than C Quality or No. 3 Quality or has not been graded in accordance with §§ 70.330 to 70.337.

UNITED STATES STANDARDS FOR QUALITY OF DRESSED POULTRY AND READY-TO-COOK POULTRY

General

§ 70.350 *General.* (a) The United States standards for quality contained in §§ 70.350 to 70.357 are applicable to individual carcasses of dressed poultry and ready-to-cook poultry of the kinds and classes set forth in §§ 70.300 to 70.306.

(b) Carcasses found to be unsound, unwholesome, or unfit for food shall not be included in any of the quality designations specified in §§ 70.350 to 70.357. If the carcass is dressed poultry, determination of unsoundness or unwholesomeness will be based on external characteristics only.

(c) The quality designations specified in §§ 70.350 to 70.357 may not be made applicable to dressed poultry that is not free from the following conditions: Dirty head; bloody head; dirty carcass; bloody carcass; dirty vent; dirty feet; fan feathers on the wing tips; garter feathers around the hock joints; neck feathers; and, if the crop is not removed, feed in the crop.

(d) The A Quality designation may not be made applicable to any poultry carcass if the poultry was wet picked in such a manner that the skin has been damaged by extended immersion in, or high temperature of, the water which resulted in immediate discoloration or may result in later objectionable discoloration.

(e) The following factors are considered in ascertaining, pursuant to §§ 70.350 to 70.357, the quality of an individual carcass: (1) Conformation; (2) fleshing; (3) fat covering; (4) the degree of freedom from pinfeathers and vestigial feathers (i. e., hair or down, as the case may be), (5) the degree of freedom from tears, cuts (including, but not being limited to, any cut for the removal of the crop) disjunct bones, and broken bones; (6) the degree of freedom from discolorations of the skin and of the flesh and of blemishes and bruises of the skin and flesh; and (7) the degree of freedom from freezer burn.

(f) In interpreting the respective requirements specified in §§ 70.350 to 70.357 for A Quality, B Quality, and C Quality, the intensity, aggregate area involved and locations of (1) discolorations (whether or not caused by dressing operations) (2) bruises, (3) pinfeathers, and (4) freezer burn, as such defects individually, or in combination, detract from the general appearance of the carcass, will be considered in determining the particular quality of an individual carcass.

Standards of Quality

§ 70.355 *A Quality.* To be of A Quality the carcass:

(a) Is of normal physical conformation except that it may have a slightly curved breastbone or other slight abnormality in the shape of the breastbone which does not interfere with the normal distribution of the flesh. The carcass may also have a very slightly curved back. There may be a dent in the breastbone which does not exceed $\frac{1}{8}$ inch in depth except that for turkeys the depth does not exceed $\frac{1}{4}$ inch.

(b) Has a well-developed, moderately broad and long breast, well-fleshed throughout its entire length, with the flesh carrying sufficiently well up to the crest of the breastbone so that the breastbone is not prominent; and, with respect to young tom turkeys, there may be a slight thickening and slight pouchiness of the skin on the forepart of the

breast. The legs are well covered with flesh.

(c) Has the breast, back, hips, and pin bones well covered with fat except that chicken broilers or fryers, and young tom turkeys may have only a moderate amount of fat covering these parts, a turkey fryer or roaster may be somewhat lacking in fat covering, and a hen, stewing chicken, or fowl does not have excessive abdominal fat.

(d) Is practically free from pinfeathers and vestigial feathers, especially on the breast, if the carcass is dressed poultry. If the carcass is ready-to-cook poultry, it is free from protruding pinfeathers, practically free from nonprotruding pinfeathers and vestigial feathers, especially on the breast.

(e) Is free from skin tears and cuts on the breast and legs; however, elsewhere on the carcass there may be tears and cuts (exclusive of the cuts usually made to remove the neck and viscera in the production of eviscerated poultry) the aggregate length of which does not exceed $1\frac{1}{2}$ inches except that, with respect to any turkey carcass or goose carcass, such aggregate length does not exceed 3 inches. There are no sewn tears or cuts. The carcass has no disjointed bones or broken bones except that it may have one disjointed bone in either a leg or wing but only if there is no evidence of a related bruise or blood clot; and, if the carcass is of a chicken broiler or fryer, it may have one nonprotruding broken bone in a wing in addition to such disjointed bone but only if there is no evidence of a related bruise or blood clot. The wing tips may have been removed.

(f) Is free from bruises and discolorations of the flesh on the breast and legs; however, elsewhere on the carcass there may be bruises and discolorations of the flesh showing not more than a slightly reddened color the aggregate area of which does not exceed the area of a circle $\frac{1}{2}$ inch in diameter, except that, with respect to any turkey or goose carcass, such aggregate area does not exceed the area of a circle 1 inch in diameter. The carcass is free from skin bruises, on the breast and legs, the aggregate area of which exceeds the area of a circle $\frac{1}{2}$ inch in diameter, and from skin bruises, elsewhere on the carcass, the aggregate area of which exceeds the area of a circle $\frac{3}{4}$ inch in diameter. With respect to any turkey or goose carcass, such aggregate area on the breast and legs does not exceed the area of a circle $\frac{3}{4}$ inch in diameter; and elsewhere on the carcass such aggregate area does not exceed the area of a circle $1\frac{1}{2}$ inches in diameter. Notwithstanding the foregoing, the total aggregate area, on the breast and legs, of all such flesh bruises; skin bruises, and all other discolorations and blemishes of the skin, is not in excess of the area of a circle 1 inch in diameter; and elsewhere on the carcass such total aggregate area is not in excess of the area of a circle $1\frac{1}{2}$ inches in diameter. Furthermore, with respect to any turkey or goose carcass, such total aggregate area on the breast

and legs is not in excess of the area of a circle 2 inches in diameter; and elsewhere on the carcass such total aggregate area is not in excess of the area of a circle 3 inches in diameter. The skin may show only slight reddening in the feather follicles on the neck, near the head, and on the wings because of improper bleeding.

(g) Shows only slight freezer burn, or evidence thereof (i. e., a few pockmarks, or evidence thereof, none of which exceeds the area of a circle $\frac{1}{8}$ inch in diameter)

§ 70.356 *B Quality*. To be of B Quality the carcass:

(a) Is of at least practically normal physical conformation except that it may have a dented, curved, and slightly crooked breastbone which does not seriously interfere with the normal distribution of flesh. The carcass may also have a moderately crooked back or misshapen legs or misshapen wings.

(b) Is sufficiently well-fleshed on the breast and legs so as to prevent a thin appearance and a prominent breastbone; however, a young tom turkey may have a pouchy thick, and somewhat flabby skin on the forepart of the breast.

(c) Has a sufficient coverage of fat on the breast and legs to prevent a distinct appearance of the flesh through the skin.

(d) Has not more than a slight scattering of pinfeathers and vestigial feathers over the entire carcass with only relatively few on the breast, if the carcass is dressed poultry. If the carcass is ready-to-cook poultry, it is free from protruding pinfeathers, but may have not more than a few scattered nonprotruding pinfeathers and vestigial feathers.

(e) Is free from tears and cuts, on the breast and legs, the aggregate length of which exceeds $1\frac{1}{2}$ inches; however, elsewhere on the carcass there may be tears and cuts (exclusive of the cuts usually made to remove the neck and viscera in the production of eviscerated poultry) the aggregate length of which does not exceed 3 inches except that, with respect to any turkey or goose carcass, such aggregate lengths do not exceed 3 inches on the breast and legs and 6 inches elsewhere on the carcass. There are no sewn tears or cuts. The carcass may have not more than a total of 2 disjointed bones in either the legs or wings, or both, but only if there is no evidence of a related bruise or blood clot, and, in addition, 1 broken bone in a leg or wing, but only if it is nonprotruding and does not show an excessive related bruise or blood clot. The wing tips may have been removed.

(f) Is free from bruises and discolorations, of the flesh on the breast and legs, showing not more than a slightly darkened color and which in the aggregate is in excess of the area of a circle $\frac{1}{2}$ inch in diameter; however, elsewhere on the carcass there may be bruises and discolorations of the flesh the aggregate area of which does not exceed the area of a circle $1\frac{1}{2}$ inches in diameter, except

that, with respect to any turkey or goose carcass, such aggregate area on the breast and legs does not exceed the area of a circle 1 inch in diameter, and, elsewhere on the carcass, it does not exceed the area of a circle 3 inches in diameter. The carcass is free from skin bruises, on the breast and legs, the aggregate area of which exceeds the area of a circle $\frac{3}{4}$ inch in diameter, and from skin bruises, elsewhere on the carcass, the aggregate area of which exceeds the area of a circle $1\frac{1}{2}$ inches in diameter. With respect to any turkey or goose carcass, such aggregate area on the breast and legs does not exceed the area of a circle $1\frac{1}{2}$ inches in diameter, and, elsewhere on the carcass, such aggregate area does not exceed the area of a circle 3 inches in diameter. Notwithstanding the foregoing, the total aggregate area on the breast and legs of all such flesh bruises, skin bruises, and all other discolorations and blemishes of the skin is not in excess of the area of a circle $1\frac{1}{2}$ inches in diameter; and elsewhere on the carcass such total aggregate area is not in excess of the area of a circle 3 inches in diameter. Furthermore, with respect to any turkey or goose carcass, such total aggregate area on the breast and legs is not in excess of the area of a circle 3 inches in diameter; and elsewhere on the carcass such total aggregate area is not in excess of the area of a circle 6 inches in diameter. The skin may show not more than moderate reddening in the feather follicles on the neck, near the head, and on the wings and thighs because of improper bleeding.

(g) Shows no more than moderate freezer burn, or evidence thereof, on any part of the carcass and no dried area in excess of the area of a circle $\frac{1}{2}$ inch in diameter.

§ 70.357 *C Quality*. A carcass that does not meet the requirements of B Quality may be of C Quality and such carcass may:

(a) Be of abnormal physical conformation (i. e., possess serious abnormal physical conditions, including, but not being limited to, a crooked breastbone) if it is fairly well fleshed.

(b) Be poorly fleshed and a young tom turkey may have a thick, coarse skin and extended breast that is pouchy or flabby.

(c) Be lacking in fat covering, over all parts of the carcass.

(d) Have numerous pinfeathers and vestigial feathers scattered over the entire carcass, if the carcass is dressed poultry; if ready-to-cook poultry, the carcass is free from protruding pinfeathers but may have a few vestigial feathers and may have nonprotruding pinfeathers that do not seriously detract from the appearance of the carcass.

(e) Have torn skin, disjointed bones, and broken bones but only if there is no evidence of a related severe bruise or blood clot. There are no sewn tears or cuts. Wing tips may have been removed.

(f) Have numerous and large discolored areas or blemishes of the skin which may be accompanied by some red-

dening and darkening of the flesh beneath, if such discolored areas and blemishes do not render any part of the carcass unfit for food.

(g) Show more than moderate freezer burn or evidence thereof (including, but not being limited to, numerous pockmarks or large dried areas) on any part of the carcass.

UNITED STATES GRADES FOR DRESSED POULTRY AND READY-TO-COOK POULTRY

General

§ 70.360 *General.* (a) The United States grades for dressed poultry and ready-to-cook poultry are applicable to dressed poultry and ready-to-cook poultry of the kinds and classes set forth in §§ 70.300 to 70.306 when individual carcasses are not separately identified and are based upon the United States standards for quality set forth in §§ 70.350 to 70.357 except the provisions in § 70.350 (c).

(b) When any lot of dressed poultry is graded on the basis of an examination of each carcass in a representative sample thereof, any carcass that would be of A Quality, if it did not possess any of the following conditions shall, for the purpose of §§ 70.360 to 70.370, be considered as being of B Quality: Dirty or bloody head or carcass, dirty feet or vent, fan feathers or neck feathers or garter feathers, or feed in the crop. Any carcass that would be of B Quality or C Quality if it did not possess any of the foregoing conditions shall, for the purpose of §§ 70.360 to 70.370, be considered as being of C Quality.

(c) All terms in the United States standards for quality set forth in §§ 70.350 to 70.357 shall, when used in §§ 70.360 to 70.370, have the same meaning as when used in the standards.

(d) The suggested weight specifications for dressed poultry and ready-to-cook poultry contained in § 70.370 are not incorporated in the grades for dressed poultry and ready-to-cook poultry since weight, as such, is not a factor of grade for the purpose of §§ 70.360 to 70.370. It is recommended, however, that each container of dressed poultry and ready-to-cook poultry contain carcasses of the weights specified in § 70.370.

Grades

§ 70.365 *U. S. Grade A.* Any lot of dressed poultry or ready-to-cook poultry composed of one or more containers of carcasses of the same kind and class may be designated as U. S. Grade A if not less than 90 percent, by count, of the carcasses in such lot are of A Quality, the remainder is of B Quality, and no individual container in such lot contains more carcasses of B Quality than in the proportion of 2 to each 12 carcasses in the container.

§ 70.366 *U. S. Grade B.* Any lot of dressed poultry or ready-to-cook poultry composed of one or more containers of carcasses of the same kind and class may

be designated as U. S. Grade B if not less than 90 percent, by count, of the carcasses in such lot are of at least B Quality, the remainder is of C Quality, and no individual container in such lot contains more carcasses of C Quality than in the proportion of 2 to each 12 carcasses in the container.

§ 70.367 *U. S. Grade C.* Any lot of dressed poultry or ready-to-cook poultry

may be designated as U. S. Grade C if it consists of carcasses of not less than C Quality.

Weight Specifications

§ 70.370 *Suggested weight specifications for dressed poultry and ready-to-cook poultry.* The suggested weight specifications for dressed poultry and ready-to-cook poultry are contained in Tables I, II, III, and IV in this section.

DRESSED POULTRY

TABLE I—CHICKENS

Class of chickens	Weight range per carcass		Weight range per dozen carcasses	
	Minimum	Maximum	Minimum	Maximum
Broilers or fryers	None	1 pound 8 ounces	None	18 pounds
	Over 1 pound 8 ounces	2 pounds	Over 18 pounds	24 pounds
	Over 2 pounds	2 pounds 8 ounces	Over 24 pounds	26 pounds
	Over 2 pounds 8 ounces	3 pounds	Over 26 pounds	28 pounds
	Over 3 pounds	3 pounds 8 ounces	Over 28 pounds	30 pounds
	Over 3 pounds 8 ounces	4 pounds	Over 30 pounds	32 pounds
Roasters	Over 3 pounds 8 ounces	4 pounds	Over 32 pounds	34 pounds
	Over 4 pounds	4 pounds 8 ounces	Over 34 pounds	36 pounds
	Over 4 pounds 8 ounces	5 pounds	Over 36 pounds	38 pounds
	Over 5 pounds	5 pounds 8 ounces	Over 38 pounds	40 pounds
	Over 5 pounds 8 ounces	None	Over 40 pounds	None
	None	6 pounds	None	72 pounds
Capons	Over 6 pounds	7 pounds	Over 72 pounds	84 pounds
	Over 7 pounds	8 pounds	Over 84 pounds	96 pounds
	Over 8 pounds	9 pounds	Over 96 pounds	108 pounds
	Over 9 pounds	10 pounds	Over 108 pounds	120 pounds
	Over 10 pounds	None	Over 120 pounds	None
	None	3 pounds	None	36 pounds
Stags	Over 3 pounds	4 pounds	Over 36 pounds	48 pounds
	Over 4 pounds	5 pounds	Over 48 pounds	60 pounds
	Over 5 pounds	6 pounds	Over 60 pounds	72 pounds
	Over 6 pounds	None	Over 72 pounds	None
	None	4 pounds	None	48 pounds
	Over 4 pounds	5 pounds	Over 48 pounds	60 pounds
Cocks	Over 5 pounds	6 pounds	Over 60 pounds	72 pounds
	Over 6 pounds	None	Over 72 pounds	None
	None	3 pounds	None	36 pounds
	Over 3 pounds	3 pounds 8 ounces	Over 36 pounds	48 pounds
	Over 3 pounds 8 ounces	4 pounds	Over 48 pounds	60 pounds
	Over 4 pounds	4 pounds 8 ounces	Over 60 pounds	72 pounds
Hens or stewing chickens or fowl	Over 4 pounds 8 ounces	5 pounds	Over 60 pounds	72 pounds
	Over 5 pounds	None	Over 72 pounds	None

TABLE II—TURKEYS

Class	Weight range per carcass	
	Minimum	Maximum
Turkey fryers or roasters	None	6 pounds
	Over 6 pounds	8 pounds
	Over 8 pounds	10 pounds
	None	6 pounds
	Over 6 pounds	8 pounds
	Over 8 pounds	10 pounds
Young hen turkeys or young tom turkeys	Over 10 pounds	12 pounds
	Over 12 pounds	14 pounds
	Over 14 pounds	16 pounds
	Over 16 pounds	18 pounds
	Over 18 pounds	20 pounds
	Over 20 pounds	22 pounds
Hen turkeys or tom turkeys	Over 22 pounds	24 pounds
	Over 24 pounds	None
	None	10 pounds
	Over 10 pounds	15 pounds
	Over 15 pounds	20 pounds
	Over 20 pounds	None

TABLE III—DUCKS, GESE, GUINEAS, SQUABS, AND PIGEONS

Kind and class	Weight range per carcass		Weight range per dozen carcasses	
	Minimum	Maximum	Minimum	Maximum
Ducks (all classes)	None	4 pounds	None	48 pounds
	Over 4 pounds	5 pounds	Over 48 pounds	60 pounds
	Over 5 pounds	None	Over 60 pounds	None
	None	8 pounds	None	96 pounds
	Over 8 pounds	10 pounds	Over 96 pounds	120 pounds
	Over 10 pounds	None	Over 120 pounds	None
Geese (all classes)	None	1 pound 8 ounces	None	18 pounds
	Over 1 pound 8 ounces	2 pounds 4 ounces	Over 18 pounds	27 pounds
	Over 2 pounds 4 ounces	None	Over 27 pounds	None
	None	8 ounces	None	9 pounds 6 ounces
	Over 8 ounces	11 ounces	Over 9 pounds 6 ounces	12 pounds 6 ounces
	Over 11 ounces	14 ounces	Over 12 pounds 6 ounces	15 pounds 6 ounces
Squabs and pigeons	Over 14 ounces	None	Over 10 pounds 8 ounces	None

TABLE IV—READY-TO-COOK POULTRY

Kinds and classes	Weight range per carcass	
	Minimum	Maximum
Broilers or fryers.....	None.....	1 pound 8 ounces.
	Over 1 pound 8 ounces.....	2 pounds.
	Over 2 pounds.....	2 pounds 8 ounces.
	Over 2 pounds 8 ounces.....	3 pounds.
	Over 3 pounds.....	3 pounds 8 ounces.
Roasters.....	Over 2 pounds 8 ounces.....	3 pounds.
	Over 3 pounds.....	3 pounds 8 ounces.
	Over 3 pounds 8 ounces.....	4 pounds.
	Over 4 pounds.....	4 pounds 8 ounces.
	Over 4 pounds 8 ounces.....	5 pounds.
Hens or stewing chickens or fowl.....	Over 5 pounds.....	None.
	None.....	2 pounds.
	Over 2 pounds.....	2 pounds 8 ounces.
	Over 2 pounds 8 ounces.....	3 pounds.
	Over 3 pounds.....	3 pounds 8 ounces.
Cocks or old roosters.....	Over 3 pounds 8 ounces.....	4 pounds.
	Over 4 pounds.....	4 pounds 8 ounces.
	Over 4 pounds 8 ounces.....	5 pounds.
	Over 5 pounds.....	5 pounds 8 ounces.
	Over 5 pounds 8 ounces.....	None.
Turkeys and geese (all classes).....	None.....	2 pounds 8 ounces.
	Over 2 pounds 8 ounces.....	3 pounds 8 ounces.
	Over 3 pounds 8 ounces.....	4 pounds 8 ounces.
	Over 4 pounds 8 ounces.....	5 pounds 8 ounces.
	Over 5 pounds 8 ounces.....	None.
Ducks (all classes).....	None.....	4 pounds.
	Over 4 pounds.....	6 pounds.
	Over 6 pounds.....	8 pounds.
	Over 8 pounds.....	10 pounds.
	Over 10 pounds.....	12 pounds.
Guineas (all classes).....	Over 12 pounds.....	14 pounds.
	Over 14 pounds.....	16 pounds.
	Over 16 pounds.....	18 pounds.
	Over 18 pounds.....	20 pounds.
	Over 20 pounds.....	None.
Pigeons (all classes).....	None.....	3 pounds.
	Over 3 pounds.....	3 pounds 8 ounces.
	Over 3 pounds 8 ounces.....	4 pounds.
	Over 4 pounds.....	None.
	None.....	12 ounces.
	Over 12 ounces.....	1 pound.
	Over 1 pound.....	1 pound 4 ounces.
	Over 1 pound 4 ounces.....	1 pound 8 ounces.
	Over 1 pound 8 ounces.....	None.
	None.....	6 ounces.
	Over 6 ounces.....	10 ounces.
	Over 10 ounces.....	14 ounces.
	Over 14 ounces.....	None.

SUBPART C—FORMS, INSTRUCTIONS, AND APPLICATIONS

FORMS OF OFFICIAL IDENTIFICATION

§ 70.380 *Forms of official identification.* The forms prescribed in §§ 70.380 to 70.384 are subject to the requirements of §§ 70.90 to 70.94, Identifying and Marking Products.

§ 70.381 *Form of grade mark.* The grade mark approved for use, pursuant to § 70.91, on a graded product shall be contained within a shield of the form and design indicated in the example in Figure 1 of this section. The information (including the form and arrangement of its wording) which is required in such mark shall be: (a) The class of the product or whether the product is "young," or "mature" (or "old") (b) the phrase "ready-to-cook" (c) its U. S. grade, and (d) one of the following phrases: "Federal-State graded," "Government graded," or any other similar phrase which may be approved by the Administrator. In addition, the plant number of the official plant shall be set forth if it does not appear on the packaging material. Such other material as the Administrator may approve may also be included within such shield. However, the grade mark for ready-to-cook poultry may be used only when the product is identified as having been inspected by Federal inspectors or by inspectors of any other inspection system acceptable to the Administrator.

Example of Grade Mark for Ready-to-Cook Poultry

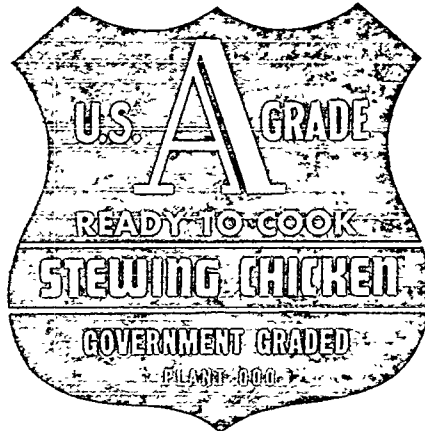


FIGURE 1.

§ 70.382 *Form of inspection mark.* The inspection mark approved for use on inspected and certified edible products shall be contained within a circle and contain the following wording: "Inspected for Wholesomeness by U. S. Department of Agriculture." The form and arrangement of such wording shall be as indicated in the example in Figure 2. In addition, the plant number of the official plant shall be set forth if it does not appear on the packaging material.

Example



FIGURE 2.

§ 70.383 *Combined form of grade mark and inspection mark.* With respect to any product which was inspected and graded, a combined form of

Example



FIGURE 3.

grade mark and inspection mark is approved for use pursuant to §§ 70.91 and 70.92. Such combination form shall contain applicable wording and be of the form and design as indicated in the example in Figure 3. In addition, the plant number of the official plant shall be set forth if it does not appear on the packaging material. Such other material as the Administrator may approve may be included as a part of the combined form of grade mark and inspection mark. Separate forms of the grade mark and the inspection mark may be used in lieu of the combined form of grade mark and inspection mark.

§ 70.384 *Identification of certain dressed poultry.* With respect to dressed poultry which has been graded or inspected for condition only, the form of identification approved for use shall contain the wording "Dressed Poultry Processed Under USDA Sanitary Standards—Not USDA Graded for Quality or USDA

Inspected for Wholesomeness" All labels with such identification shall set forth the applicable plant number and shall be marked with a lot number which shall be the number of the day of the year on which the poultry was slaughtered. This identification shall be printed on the label and shall not be applied by means of a stencil or a rubber stamp. A rubber stamp may be used to insert the plant number and the lot number within the official mark provided such numbers are applied legibly. The required wording shall be set forth in the manner indicated in Figure 4 of this section and within a rectangle of the form and design illustrated.

Example

DRESSED POULTRY	
PROCESSED UNDER U. S. D. A.	
SANITARY STANDARDS	
Not USDA Graded for Quality	
or USDA Inspected for Wholesomeness	
Plant No. 000.	Lot 000

FIGURE 4.

INSTRUCTIONS GOVERNING THE ADMINISTRATION OF POULTRY INSPECTION WHERE A FEDERAL-STATE SERVICE IS DESIRED

Basis; Supervision

§ 70.390 *Basis of providing Federal-State inspection service.* Inspection service rendered pursuant to the regulations governing the grading and inspection of poultry and edible products thereof (Subpart A of this part) may be furnished on a Federal basis or on a Federal-State basis as provided in §§ 70.390 to 70.404. Inspection service in accordance with the regulations shall be furnished on a Federal basis in any State where arrangements have not been made with cooperating State agencies for service on a Federal-State basis. Inspection service shall be furnished on a Federal-State basis in any State in which the cooperating State agency makes a request, and becomes a party to a cooperative agreement which provides for such Federal-State service. Such cooperating parties within the State may be any responsible and qualified agency interested in promoting orderly marketing of poultry products.

§ 70.391 *Supervision.* All inspection service which is provided under the aforesaid regulations and cooperative agreements shall be technically and administratively supervised by the Production and Marketing Administration (hereafter referred to as PMA) through its national and regional supervisory organization. It shall be the responsibility of PMA to determine that the services rendered pursuant to any cooperative agreement under the regulations are conducted in a satisfactory manner, that the actual post-mortem inspection of poultry is adequate, and that uniform procedures and policies are followed in all plants in accordance with the requirements of the regulations. In a State where a Federal-State supervisor of inspection is provided, this supervisor shall be immediately responsible for the activ-

ities within the State. However, any supervisory official of PMA at a higher administrative level shall have the authority to observe independently of or in conjunction with the Federal-State supervisor, any particular station or the official activities of any particular inspector at any time he deems it advisable; and shall have the authority to supervise such activities as may be desirable and necessary. Supervisory direction should be applied through the Federal-State supervisor.

Conditions

§ 70.395 *Regulations.* The regulations of the Secretary of Agriculture governing the grading and inspection of poultry and edible products thereof and instructions of the Administrator governing the inspection of products shall apply to both Federal-State inspection service and to Federal inspection service. PMA shall assume the responsibility for developing the regulations and any instructions issued pursuant thereto and for the supervision of inspection work carried on under the service.

§ 70.396 *Qualifications of Federal-State supervisor.* The Federal-State supervisor of inspection service shall meet the following qualifications:

(a) He shall have a veterinary degree from an accredited school.

(b) He shall have such technical knowledge, experience, and administrative and supervisory ability as will qualify him for satisfactorily performing the duties of a Federal-State supervisor. These qualifications shall be checked by and be acceptable to PMA.

(c) He shall have had experience in the Federal poultry inspection service or have successfully completed a course of training at an interne station which is under the supervision of the Federal poultry inspection service of PMA.

(d) He shall be given a joint Federal-State or a full Federal appointment.

(e) He shall perform supervisory functions in a manner satisfactory to PMA. The Federal-State supervisor may at the discretion of PMA be removed from his position and replaced by another qualified employee whenever such action is in the best interests of PMA.

§ 70.397 *Duties of the Federal-State supervisor.* The Federal-State supervisor of inspection service shall be responsible for the supervision and proper conduct of inspection service within the State or States to which he is assigned. He may be assigned to supervise inspection service in a single State or in two or more adjoining States providing this is agreed to by PMA and the cooperating agencies in such States, except that a Federal-State supervisor shall not have more than 35 plants under his supervision. He shall examine each prospective State inspector and recommend acceptable applicants for a license. Such recommendation shall be in writing and be accompanied by a statement of the qualifications of the applicant. He shall be responsible for making surveys of plants applying for service within his State and present his recommendation for action on such applications in writ-

ing accompanied by appropriate supporting evidence to the Federal office of the inspection service. The assignment of State employed inspectors to plants shall be mutually agreeable to the State agency and PMA. Insofar as practicable inspectors will not be assigned to plants where they have been previously employed.

§ 70.398 *Employment and licensing of State inspectors.* (a) The cooperating State agency shall assume responsibility for recruitment and employment of State inspectors for plants under the Federal-State service, and the salaries of such inspectors shall be paid by the State. Such inspectors may be employed only when licensed by PMA, and it shall be understood that PMA shall have the authority to withdraw such license at any time (and thus terminate the services of any such inspector) in accordance with the provisions of the regulations. The licensed State inspector shall not under any circumstance, while a licensed inspector, accept employment, money or remuneration of any kind from the company to which assigned.

(b) Each prospective State inspector shall complete a period of training under the immediate supervision of a Federally employed training supervisor. The license issued to the prospective State inspector shall be a limited license authorizing him to perform inspection work only under the supervision of the inspector-in-charge of the station to which he is assigned. A license authorizing the State inspector to serve as inspector-in-charge of a station may be issued when it has been determined by the officer-in-charge of the poultry grading and inspection service of PMA that the inspector is qualified for such a position.

§ 70.399 *Duties of State-employed inspectors.* The duties of the State-employed inspectors shall be the same as the duties of Federally-employed inspectors. Inspectors shall make proper, accurate and adequate post-mortem examinations of poultry carcasses and shall thoroughly familiarize themselves with and adhere to the inspection procedures and the applicable provisions of the Federal regulations governing inspection service.

§ 70.400 *Replacement of Federal inspectors.* When Federal-State inspection service is inaugurated in a State, and when such service will replace Federal inspection service furnished in the State at that time, the replacement of Federal inspectors by State inspectors shall not be carried out until satisfactory transfers of the Federal inspectors to plants out of the State can be accomplished by PMA.

§ 70.401 *Collection of fees.* Either the cooperating State agency or PMA, as agreed upon, may assume the responsibility for the collection of all fees for Federal-State inspection service in the State. The contract providing for Federal-State inspection service shall be between each firm under Federal-State inspection service and the agency responsible for the collection of fees, and

each such contract, in either case, shall be approved or concurred in by PMA.

§ 70.402 *Reimbursement of PMA by State cooperating agency.* When the cooperating State agency assumes the responsibility for the collection of fees, it shall reimburse PMA from fees collected or from State appropriations, or both, for the following:

(a) An amount equal to that part of the Federal-State supervisor's salary paid by PMA.

(b) An amount equal to salaries of any Federally employed inspectors who perform inspection service in any plant operating under Federal-State inspection service, such salary costs to cover the periods of such assignments.

(c) An amount to cover accrued leave both annual and sick and travel costs incurred by persons referred to in paragraphs (a) and (b) of this section, during periods such persons are performing Federal-State service.

(d) An amount equal to 7 percent of the amounts referred to in paragraphs (a) (b) and (c) of this section.

(e) An amount sufficient to cover overhead in excess of that specified in paragraph (d) of this section, general supervision and other costs and expenses incurred by the Administration in rendering the inspection service.

§ 70.403 *Reimbursement of cooperating State agency by PMA.* When PMA assumes the responsibility for the collection of fees, it shall reimburse the cooperating State agency for the salaries of the State inspectors, for periods during which such inspectors perform Federal-State inspection service, and for such annual and sick leave as may be authorized by the State, and agreed to by PMA.

§ 70.404 *Additional provisions.* The cooperating State agency shall, without cost to PMA, furnish office space, office furniture and equipment, heat, light, clerical assistance, and telephone service for use by the Federal-State supervisor.

APPLICATION FOR GRADING SERVICE

§ 70.410 *Application for grading service with respect to live poultry, dressed poultry, and ready-to-cook poultry.*

Application is hereby made, in accordance with the applicable provisions of the regulations (7 CFR Part 70) governing the grading and inspection of poultry and edible products thereof and United States specifications for classes, standards, and grades with respect thereto, for grading service to be performed at the plant hereinafter designated:

Name of plant _____
Street address _____
City and State _____

(a) Upon approval of this application by the Production and Marketing Administration, United States Department of Agriculture (hereinafter referred to as "PMA") PMA will furnish grading service in accordance with the terms and conditions hereof.

(b) In making this application, the applicant agrees to comply with the terms and conditions of the aforesaid regulations (including such applicable instructions as may be issued from time to time by the Administrator), and such other conditions as hereinafter enumerated.

(c) The applicant agrees to pay for the full cost of the grading service covered here-

by to PMA at the time the respective invoices are rendered by PMA. The full costs shall comprise such of the following items as may be due and may be included, from time to time, in the invoice or invoices covering the period or periods during which the grading service may be rendered:

(i) A charge of \$75.00 for the initial survey (required to be made with respect to an official plant pursuant to the aforesaid regulations) of the designated plant and its premises (but no charge for the final survey) prior to the performance, by the Administration, of the grading service covered hereby. *Provided*, That, if at the time of submission of this application for poultry grading service such designated plant is an official plant in which inspection service is performed by the Administration and poultry grading service has not been performed by the Administration in such plant during the twelve-month period ending on the date of this application, the charge for the survey shall be computed in the manner specified in subparagraph (ii) of this paragraph;

(ii) A charge for each additional survey to be computed on the basis (a) of the actual cost to the Administration of the travel and per diem incurred in the making of the survey, and (b) a charge of \$3.60 per hour for the time consumed in making the survey;

(iii) An inauguration charge of \$50.00 to cover costs incurred by PMA in connection with the inauguration of the grading service and assignment of a grader to the designated plant;

(iv) A charge of \$25.00 for each additional grader or replacement of a previously assigned grader to the designated plant: *Provided*, That, no charge under this subdivision (iv) is to be made for temporary relief graders for regular graders or for the replacement of a grader who is a Federal employee when the replacement is made by PMA other than at the request of the applicant;

(v) A charge equal to the salary costs paid to each grader assigned to applicant's plant by PMA, including earned annual leave and, if necessary, earned sick leave: *Provided*, That, no charge is to be made for salary costs for any assigned grader of the designated plant while temporarily reassigned by PMA to perform a grading service for other than the applicant;

(vi) A charge equal to the salary costs, travel expenses and per diem paid by PMA to any grader whose services are required for relief purposes when regular graders are on annual or sick leave;

(vii) A charge for the actual cost to PMA of any travel and per diem incurred by each grader assigned to the plant while in the performance of grading service rendered the applicant;

(viii) A charge, at the sole discretion of PMA, of an amount not in excess of the actual cost to PMA of the travel (including the cost of movement of household goods and dependents) and per diem with respect to each grader who is transferred from an official station to the designated plant;

(ix) A charge included in salary costs equal to the Employer's tax imposed under the United States Internal Revenue Code (26 U. S. C.) for Old Age and Survivor's benefits under the Social Security System; and

(x) An administrative service charge based upon the aggregate weight of the total monthly volume of all products handled in the plant, and computed in accordance with the following table:

Computation of administrative service charges:	
0 to 20,000 pounds.....	\$25.00
20,000 to 100,000 pounds.....	30.00
100,000 to 150,000 pounds.....	35.00
150,000 to 200,000 pounds.....	40.00
200,000 to 250,000 pounds.....	45.00

Computation of administrative service charges—Continued

250,000 to 300,000 pounds.....	\$50.00
300,000 to 400,000 pounds.....	55.00
400,000 to 500,000 pounds.....	60.00
500,000 to 600,000 pounds.....	65.00
600,000 to 700,000 pounds.....	70.00
700,000 pounds or more.....	75.00

(d) The applicant shall designate, in writing, the employees of the applicant who will be required and authorized, to furnish each grader with such information as may be necessary for the performance of the grading service.

It is agreed that:

(a) PMA will provide an adequate number of graders to perform the grading service covered hereby;

(b) At the sole discretion of PMA the graders may be either a Federal or State employee or a licensed employee of the applicant;

(c) PMA shall not be responsible for damages accruing through any acts of commission or omission on the part of any grader;

(d) The provisions hereof shall continue in full force and effect from its effective date until suspended, withdrawn, or terminated, by (i) mutual consent of the applicant and PMA; (ii) written notice given by either party to the other to take effect on a specific date not less than 30 days from the date of the giving of such notice; (iii) one (1) day's written notice by PMA to the applicant, if the applicant fails to honor any invoice within thirty (30) days after date of invoice covering the cost of the grading service as herein provided; or (iv) termination of the services requested herein pursuant to the provisions in the following paragraph (e);

(e) The services to be rendered hereunder shall be terminated by PMA at any time PMA, acting pursuant to any applicable laws, rules, or regulations, debar the applicant from receiving any further benefits of the service, or the services hereunder may be suspended or terminated at any time PMA concludes that the applicant has not conformed, or cannot conform, hereto;

(f) All terms used herein shall have the same meaning as when used in the aforesaid regulations and instructions;

(g) A federally employed grader will be required to confine his activities to those duties necessary in the rendering of grading service and such closely related activities as may be approved by PMA. *Provided*, That, in no instance will the federally employed grader assume the duties of management;

(h) No member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this agreement or to any benefit that may arise therefrom unless derived through the agreement made with a corporation for its general benefit.

By _____
(Applicant)

(Street)

(City) (State)

(Date)

Approved:

By _____
(Title)

(Date)

Production and Marketing
Administration, U. S.
Department of Agriculture.

Unless otherwise indicated herein the bills will be rendered to the applicant at the address indicated above.

[F. R. Doc. 53-9252; Filed, Nov. 2, 1953;
8:48 a. m.]

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

[Docket No. AO-177-A12]

PART 972—MILK IN TRI-STATE MARKETING AREA

SUBPART—ORDER REGULATING HANDLING

Sec.	
972.0	Findings and determinations.
	DEFINITIONS
972.1	Act.
972.2	Secretary.
972.3	Department of Agriculture.
972.4	Person.
972.5	Tri-State marketing area.
972.6	Route.
972.7	Fluid milk plant.
972.8	Huntington district plant.
972.9	Gallipolis district plant.
972.10	Scioto district plant.
972.11	Athens district plant.
972.12	Nonfluid milk plant.
972.13	Producer.
972.14	Producer milk.
972.15	Delivery period.
972.16	Handler.
972.17	Producer-handler.
972.18	Other source milk.
	MARKET ADMINISTRATOR
972.20	Designation.
972.21	Powers.
972.22	Duties.
	REPORTS, RECORDS, AND FACILITIES
972.25	Delivery period reports of receipts and utilization.
972.26	Other reports.
972.27	Records and facilities.
972.28	Retention of records.
	CLASSIFICATION
972.30	Skim milk and butterfat to be classified.
972.31	Classes of utilization.
972.32	Shrinkage.
972.33	Responsibility of handlers and reclassification of milk.
972.34	Transfers.
972.35	Computation of skim milk and butterfat in each class.
972.36	Allocation of skim milk and butterfat classified.
	MINIMUM PRICES
972.40	Basic formula price to be used in determining class prices.
972.41	Class I milk prices.
972.42	Class II milk prices.
972.43	Class III milk prices.
972.44	Butterfat differentials to handlers.
972.45	Emergency price provisions.
972.46	Prices for Class I, Class II and Class III milk disposed of outside the marketing area.
972.47	Price of Class I or Class II milk transferred by one handler to another handler.
	APPLICATION OF PROVISIONS
972.50	Producer-handlers.
972.51	Exempt milk.
972.52	Milk caused to be delivered by an association of producers.
972.53	Diverted milk.
	DETERMINATION OF UNIFORM PRICES
972.60	Computation of value of milk.
972.61	Computation of uniform prices.
972.62	Notification of handlers.
	PAYMENTS
972.65	Time and method of final payment.
972.66	Partial payments.

Sec.	
972.70	Butterfat differential.
972.71	Expense of administration.
	MARKETING SERVICE DEDUCTIONS
972.75	Payments to market administrator.
972.76	Payments to cooperative associations.
	ADJUSTMENT OF ACCOUNTS
972.80	Errors in payments.
972.81	Overdue accounts.
	MISCELLANEOUS PROVISIONS
972.85	Effective time.
972.86	Suspension or termination.
972.87	Continuing power and duty of the market administrator.
972.88	Liquidation after suspension or termination.
972.89	Agents.
972.90	Separability of provisions.
972.91	Termination of obligation.

AUTHORITY: §§ 972.0 to 972.91 Issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 603c.

§ 972.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Tri-State marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk produced for sale in the said marketing area as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supplies of and demand for such milk, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

(4) All milk and milk products handled by handlers as defined in this order amending the order, as amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk and its products; and

(5) The necessary expenses of the market administrator for the maintenance and functioning of such agency will require the payment by each handler as his pro-rata share of such expense 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all receipts of producer milk (including such handler's own production) and of other source milk classified as Class I milk pursuant to § 972.31 (a) (1) or as Class II milk.

(b) *Additional findings.* It is hereby found and determined that good cause exists for making this order amending the order, as amended, effective on November 1, 1953. The regulatory provisions of this order amending the order, as amended, are such that no extensive preparation prior to its effective date will be required of handlers regulated thereunder. The regulatory provisions of this order amending the order, as amended, are well known to handlers—a hearing on proposals containing provisions similar to the regulatory provisions of this order amending the order, as amended, was held in May 1953; the recommended decision in this proceeding containing regulatory provisions substantially the same as those contained herein was issued on September 11, 1953; and the decision the regulatory provisions of which are made a part of this order amending the order, as amended, was issued on October 23, 1953. Under these circumstances handlers will be afforded reasonable time for such preparations as may be necessary. The undesirable marketing conditions which this order amending the order, as amended, is designed to correct are such that their continued existence tends to further jeopardize the orderly marketing of milk in the Tri-State marketing area. Therefore, it is impracticable, unnecessary, and contrary to the public interest to delay the effective date of this order amending the order, as amended, until at least 30 days after its publication in the FEDERAL REGISTER, and good cause exists pursuant to section 4 (c) of the Administrative Procedure Act (5 U. S. C. 1000) for making this order amending the order, as amended, effective November 1, 1953.

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing or shipping milk covered by this order amending the order, as amended, which is marketed within the Tri-State marketing area) of more than 50 percent of the milk which is marketed within the said marketing area, refused or failed to sign the proposed marketing agreement regulating the handling of milk in the said marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order amending the order, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interests of producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order amending the order, as amended, is approved or favored by at least two-thirds of the producers who during the determined representative period (May 1953) were engaged in the production of milk for sale in the said marketing area and who participated in a referendum to ascertain producer approval or disapproval of the issuance of such order amending the order, as amended.

(4) The terms and conditions of this order amending the order, as amended, providing for the payment to all producers and associations of producers delivering milk to the same handler of uniform prices for all milk delivered by them are approved or favored by at least three-fourths of the producers who during a representative period (May 1953) were engaged in the production of milk for sale in the said marketing area and who participated in a referendum to ascertain producer approval or disapproval of the issuance of such order amending the order, as amended.

Order relative to handling. It is therefore ordered that on and after the effective date thereof the handling of milk in the Tri-State marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, and the aforesaid order, as amended, is hereby further amended as follows:

DEFINITIONS

§ 972.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.)

§ 972.2 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or such other officer or employee of the United States authorized to exercise the powers or to perform the duties of the Secretary of Agriculture.

§ 972.3 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture or such other Federal agency authorized to perform the price reporting functions specified in §§ 972.40 and 972.44.

§ 972.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 972.5 *Tri-State marketing area.* "Tri-State marketing area," hereinafter called the "marketing area," means the territory lying within the boundaries of (a) Boyd County, Kentucky; (b) Athens County; Gallipolis Township of Gallia County; Jackson County, except Bloomfield and Jackson Townships; Fayette, Hamilton, Perry, Rome, Union, and Upper Townships of Lawrence County; Beaver, Camp Creek, Jackson, Marion, Newton, Pee Pee, Scioto, Seal, and Union Townships of Pike County; Scioto County; and Belpre, Marietta, and Mus-

kingum Townships of Washington County; all in Ohio; and (c) Cabell County, except McComas and Union Magisterial Districts; Graham, Lewis, and Waggoner Magisterial Districts of Mason County; Ceredo, Union, and Westmoreland Magisterial Districts of Wayne County; and Lubeck, Parkersburg, Tygart, and Williams Magisterial Districts of Wood County; all in West Virginia; including but not limited to, all municipal corporations in the above described area.

§ 972.6 *Route.* "Route" means delivery route (including a plant store) on which milk, skim milk, buttermilk, flavored milk, or flavored milk drink is distributed for consumption in fluid form to wholesale or retail shops other than to any milk plant(s)

§ 972.7 *Fluid milk plant.* Any milk handling plant (hereinafter referred to as a "plant") except a plant at which the handling of milk is regulated by another milk marketing agreement or order issued pursuant to the act shall be a "fluid milk plant"

(a) In any delivery period in which a route is operated wholly or partially within the marketing area from such plant;

(b) In any delivery period in which a total of 25,000 pounds or more of milk is delivered in the form of milk from such plant to one or more plants which are fluid milk plants pursuant to paragraph (a) of this section: *Provided*, That a plant shall not be a fluid milk plant pursuant to this paragraph during any delivery period prior to May 1954 or during any of the subsequent delivery periods of September through April in which milk is delivered from such plant to one or more fluid milk plants pursuant to paragraph (a) of this section on less than one day of each week ending within such delivery period: *And further provided*, That a "fluid milk plant" pursuant to this section shall not mean such portions of a building or facilities used for receiving or processing such milk, or milk product, as is required by the appropriate health authority to be kept physically separate from the receiving or processing of Class I milk for the community(s) served.

§ 972.8 *Huntington district plant.* "Huntington district plant" means a fluid milk plant located in Boyd or Greenup County, Kentucky, Cabell, Logan, or Wayne County, West Virginia, or Lawrence County, Ohio.

§ 972.9 *Gallipolis district plant.* "Gallipolis district plant" means a fluid milk plant located in Gallia County, Ohio, or in Mason County, West Virginia.

§ 972.10 *Scioto district plant.* "Scioto district plant" means a fluid milk plant located in Jackson, Pike, Scioto, or Vinton County, Ohio.

§ 972.11 *Athens district plant.* "Athens district plant" means a fluid milk plant which is not a Huntington district plant, a Gallipolis district plant, or a Scioto district plant.

§ 972.12 *Nonfluid milk plant.* "Nonfluid milk plant" means any milk

processing or manufacturing plant not a fluid milk plant pursuant to § 972.7.

§ 972.13 *Producer* "Producer" means a person who produces milk received:

(a) At a fluid milk plant,
(b) At a nonfluid milk plant by diversion within April, May, June, or July from a fluid milk plant, or

(c) By an association in its capacity as a handler: *Provided*, That such person producing milk holds a dairy farm inspection permit or equivalent certification if required by the appropriate health authority of the community for which his milk is produced.

§ 972.14 *Producer milk.* "Producer milk" means milk produced by one or more producers under the conditions set forth in § 972.13.

§ 972.15 *Delivery period.* "Delivery period" means the calendar month or the total portion thereof during which this part is in effect.

§ 972.16 *Handler* "Handler" means:
(a) A person who operates a fluid milk plant, or

(b) An association of producers with respect to milk customarily received as producer milk at a fluid milk plant which is diverted by such association within April, May, June or July on its account from a fluid milk plant to a nonfluid milk plant.

§ 972.17 *Producer-handler* "Producer-handler" means any person who:
(a) Produces milk but receives no milk from dairy farmers, and

(b) Operates a route extending into the marketing area.

§ 972.18 *Other source milk.* "Other source milk" means all skim milk (including reconstituted skim milk) and butterfat not received from a producer, or from a fluid milk plant, but:

(a) Contained in milk, skim milk, or cream, or
(b) Used to produce any milk product.

MARKET ADMINISTRATOR

§ 972.20 *Designation.* The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 972.21 *Powers.* The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To make rules and regulations to effectuate its terms and provisions;

(c) To receive, investigate, and report to the Secretary complaints of violations; and

(d) To recommend amendments to the Secretary.

§ 972.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not limited to, the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to

the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary.

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee, who handles funds entrusted, to the market administrator.

(d) Pay, out of the funds provided by § 972.71.

(1) The cost of his bond and of the bonds of his employees;

(2) His own compensation; and

(3) All other expenses, except those incurred under § 972.75 necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly announce, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who within 15 days after the day upon which he is required to perform such acts, has not made:

(1) Reports pursuant to §§ 972.25 or 972.26, or

(2) Payments pursuant to §§ 972.65 through 972.81,

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary.

(h) Upon request, supply on or before the 25th day after the end of each delivery period to each association of producers with respect to producers whose membership in such association has been verified by the market administrator, a record of the pounds of milk received by each handler from member producers and the class utilization of such milk. For the purpose of this report such member milk shall be prorated to each class in the proportions that the total receipts of milk from producers by such handler were classified in each class;

(i) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and

(j) Publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the prices determined for each delivery period as follows:

(1) On or before the 5th day after the end of such delivery period, the class prices and butterfat differentials computed pursuant to §§ 972.41 through 972.44; and

(2) On or before the 10th day after the end of such delivery period, the uni-

form prices computed pursuant to § 972.61 and the butterfat differential computed pursuant to § 972.70.

REPORTS, RECORDS, AND FACILITIES

§ 972.25 *Delivery period reports of receipts and utilization.* On or before the 5th day after the end of each delivery period each handler, except a producer-handler, shall report the following to the market administrator with respect to all producer milk received, all other source milk received at a fluid milk plant, and all skim milk and butterfat received in any form at a fluid milk plant from any other fluid milk plant, within such delivery period in the detail and on forms prescribed by the market administrator;

(a) The quantities of butterfat and quantities of skim milk contained in (or used in the production of) such receipts, and their sources;

(b) The utilization of such receipts; and

(c) Such other information with respect to such receipts and utilization as the market administrator may prescribe.

§ 972.26 *Other reports.* Handlers shall submit other reports as follows:

(a) The intention to receive other source milk shall be reported by the receiving handler on or before the first day other source milk is received and the intention to discontinue such receipts shall be reported on or before the last day such milk is received.

(b) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may request.

(c) On or before the 20th day after the end of each delivery period each handler shall submit to the market administrator such handler's producer payroll for the delivery period, which shall show:

(1) The total pounds of milk received from each producer and association of producers and the total pounds of butterfat contained in such milk.

(2) The amount of payment to each producer and association of producers, and

(3) The nature and the amount of any deductions and charges involved in the payments referred to in subparagraph (2) of this paragraph.

§ 972.27 *Records and facilities.* Each handler shall maintain, and make available to the market administrator during the usual hours of business, such accounts and records of his operations and such facilities as, in the opinion of the market administrator, are necessary to verify or to establish the correct data with respect to:

(a) The utilization, in whatever form, of all skim milk and butterfat received;

(b) The weights, samples, and tests for butterfat and for other content of all skim milk and butterfat handled;

(c) Payments to producers and associations of producers, and

(d) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream and each milk product on hand at the beginning and at the end of each delivery period.

§ 972.28 *Retention of records.* All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain, except that all such books and records pertaining to transactions before August 1, 1946, shall be retained until October 1, 1949: *Provided*, That if within such three-year period or before October 1, 1949, whichever is applicable, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 2c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 972.30 *Skim milk and butterfat to be classified.* Skim milk and butterfat contained in milk, skim milk, and cream, or used to produce milk products, received from all sources within the delivery period by a handler at his fluid milk plant(s) and all producer milk received within the delivery period in the manner described in § 972.16 (b) shall be classified by the market administrator pursuant to §§ 972.31 through 972.34.

§ 972.31 *Classes of utilization.* Subject to the conditions set forth in §§ 972.32 through 972.34, the skim milk and butterfat described in § 972.30 shall be classified by the market administrator on the basis of the following classes:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat:

(1) Disposed of in fluid form as milk, skim milk (except as provided in paragraph (c) (2) and (3) of this section), or flavored milk or flavored milk drink; and

(2) Not specifically accounted for under subparagraph (1) of this paragraph or as Class II milk or Class III milk.

(b) Class II milk shall be all skim milk (including reconstituted skim milk) and butterfat disposed of in fluid form as cream or any mixture of cream and milk (or skim milk) containing not less than 6 percent of butterfat, or buttermilk (except as provided in paragraph (c) (2) of this section).

(c) Class III milk shall be all skim milk and butterfat:

(1) Used to produce a milk product other than any of those specified in paragraphs (a) (1) or (b) of this section;

(2) Dumped or disposed of for livestock feeding as skim milk or buttermilk;

(3) Disposed of as bulk skim milk to any manufacturer of candy, soup, or bakery products who does not dispose of milk in fluid form;

(4) In actual plant shrinkage of producer milk computed pursuant to

§ 972.32 (d) but not in excess of 2 percent thereof; and

(5) In actual plant shrinkage of other source milk computed pursuant to § 972.32 (d)

§ 972.32 *Shrinkage.* The market administrator shall determine the shrinkage of skim milk and butterfat, respectively, in producer milk and in other source milk in the following manner:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, by:

(1) Combining the shrinkage thereof for all fluid milk plants operated by the handler, and

(2) Combining in a separate sum the shrinkage thereof for all nonfluid milk plants operated by him to which any skim milk or butterfat has been transferred from any of his fluid milk plants;

(b) Prorate the shrinkage of skim milk and butterfat, respectively, computed pursuant to paragraph (a) (2) of this section in such nonfluid milk plants between:

(1) Skim milk or butterfat, respectively, transferred from any of his fluid milk plants, and

(2) Skim milk or butterfat, respectively, received from all other sources;

(c) Add to the shrinkage of skim milk and butterfat, respectively, computed pursuant to paragraph (a) (1) of this section, the shrinkage of skim milk or butterfat, respectively, transferred from the handler's fluid milk plants to his nonfluid milk plants, computed pursuant to paragraph (b) of this section; and

(d) Prorate the total shrinkage of skim milk and butterfat, respectively, computed pursuant to paragraph (c) of this section between producer milk and other source milk at his fluid milk plants after deducting from the total receipts therein, the receipts from fluid milk plants other than his own.

§ 972.33 *Responsibility of handlers and reclassification of milk.* All skim milk and butterfat shall be Class I milk, unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise. Any skim milk or butterfat classified (except that transferred to a producer-handler) in one class shall be reclassified if used or reused by such handler or by another handler in another class.

§ 972.34 *Transfers.* Skim milk or butterfat transferred from a handler's fluid milk plant to any other plant shall be classified as Class I milk if so transferred as any item listed in § 972.31 (a) (1) and as Class II milk if so transferred as any item listed in § 972.31 (b)

(a) To another fluid milk plant of a handler (except a producer-handler) unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 5th day after the end of the delivery period within which such transfer was made: *Provided*, That skim milk or butterfat assigned to a particular class shall be limited to the amount thereof remaining in such class in the fluid milk plant of the transferee handler after the subtraction of other source

milk pursuant to § 972.36 (a) (2) and any excess of such transferred skim milk or butterfat, respectively, shall be assigned in series beginning with the next lowest-priced available class;

(b) To a producer-handler; and

(c) To a nonfluid milk plant unless:

(1) Other utilization is mutually indicated in writing to the market administrator by both the buyer and seller on or before the 5th day after the end of the delivery period within which such transfer was made,

(2) The buyer maintains books and records showing utilization of all skim milk and butterfat at his plant which are made available if requested by the market administrator for audit, and

(3) Such buyer's plant had actually used not less than an equivalent amount of skim milk or butterfat in the use indicated in such statement: *Provided*, That if such buyer's plant had not actually used an equivalent amount of skim milk or butterfat in such indicated use, the remaining pounds shall be classified in the next lowest-priced available class of utilization as if the classes of utilization set forth in § 972.31 were applicable to such buyer's plant.

§ 972.35 *Computation of skim milk and butterfat in each class.* For each delivery period, the market administrator shall correct for mathematical and for other obvious errors the delivery period report submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk, Class II milk and Class III milk for such handler.

§ 972.36 *Allocation of skim milk and butterfat classified.* The classification of skim milk and butterfat in producer milk shall be determined as follows:

(a) The pounds of skim milk remaining in each class after making the following computations shall be the pounds in such class allocated to producer milk:

(1) Subtract from the total pounds of skim milk in Class III milk the pounds of skim milk in plant shrinkage pursuant to § 972.31 (c) (4)

(2) Subtract from the pounds of skim milk remaining in each class after making the deduction pursuant to subparagraph (1) of this paragraph, in series beginning with the lowest-priced available class, the pounds of skim milk in other source milk;

(3) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk received from other fluid milk plants in such classes pursuant to § 972.34 (a)

(4) Add to the remaining pounds of skim milk in Class III milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; and

(5) If the remaining pounds of skim milk in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the remaining pounds of skim milk in each class in series beginning with the lowest-priced available class.

(b) Allocate classified butterfat to producer milk according to the method prescribed in paragraph (a) of this section for skim milk.

(c) Determine the weighted average butterfat test of the remaining milk in each class computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 972.40 *Basic formula price to be used in determining class prices.* The basic formula price per hundredweight of milk to be used in determining the class prices provided by §§ 972.41 through 972.43 shall be the highest of the prices per hundredweight for milk of 3.5 percent butterfat content determined by the market administrator pursuant to paragraphs (a) (b) or (c) of this section computed to the nearest tenth of a cent.

(a) The average of the basic (or field) prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture.

Present Operator and Location

Borden Co., Black Creek, Wis.
Borden Co., Greenville, Wis.
Borden Co., Mt. Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Jefferson, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Mantowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The price per hundredweight computed as follows:

(1) Multiply by six the average wholesale price per pound of 92-score butter at Chicago as reported by the Department of Agriculture for the delivery period;

(2) Add an amount equal to 2.4 times the average weekly prevailing price per pound of "Twins" during the delivery period on the Wisconsin Cheese Exchange at Plymouth, Wisconsin: *Provided*, That if the price of "Twins" is not quoted on the Wisconsin Cheese Exchange the weekly prevailing price per pound of "Cheddars" shall be used; and

(3) Divide by seven, add 30 percent thereof, and then multiply by 3.5.

(c) The price per hundredweight computed by adding together the plus values pursuant to subparagraphs (1) and (2) of this paragraph:

(1) From the average wholesale price per pound of 92-score butter at Chicago, as reported by the Department of Agriculture for the delivery period, subtract three cents, add 20 percent thereof, and then multiply by 3.5; and

(2) From the average of the carlot prices per pound of nonfat dry milk solids for human consumption, spray and roller process, f. o. b. manufacturing plants, as published for the Chicago area for the delivery period by the Department of Agriculture, including in such

average the quotations published for any fractional part of the previous delivery period which were not published and available for the price determination of such nonfat dry milk solids for the previous delivery period, deduct 5.5 cents, multiply by 8.5 and then multiply by 0.965.

§ 972.41 *Class I milk prices.* Subject to the provisions of §§ 972.44 through 972.47, the minimum prices per hundredweight on a 3.5 percent butterfat content basis to be paid by each handler for producer milk classified as Class I milk, shall be the basic formula price determined pursuant to § 972.40 adjusted as follows:

(a) Add the following amounts for the delivery periods indicated:

	April, May, June, and July	February, March, August, and September	October, November, December, and January
Huntington district plants.....	\$1.00	\$1.45	\$1.90
Gallipolis district plants.....	.90	1.35	1.80
Scioto district plants.....	.80	1.25	1.70
Athens district plants.....	.70	1.15	1.60

(b) Add or subtract a "supply-demand adjustment" computed as follows:

(1) Divide the total gross volume of Class I milk (less interhandler transfers) at all fluid milk plants of handlers in the first and second preceding delivery periods by the total receipts of milk from producers at such plants during the same delivery periods, multiply the result by 100, and round to the nearest whole number. The result shall be known as the "current utilization percentage."

(2) Compute a "net utilization percentage" by subtracting from the current utilization percentage as computed in subparagraph (1) of this paragraph the appropriate "standard utilization percentage" shown below:

Delivery period for which price is being computed	Standard utilization percentage	
	For use in computing prices for May 1954 and subsequent delivery periods	For use in computing prices for delivery periods prior to May 1954
January.....	84	102
February.....	83	101
March.....	80	98
April.....	77	83
May.....	71	86
June.....	66	73
July.....	52	64
August.....	52	64
September.....	55	67
October.....	62	75
November.....	72	83
December.....	81	83

(3) Determine the amount of the supply-demand adjustment as follows: *Provided*, That the amount of the supply-demand adjustment for each delivery period prior to August 1954 shall not exceed plus 28 cents or shall not be less than minus 28 cents,

Supply-demand adjustment is	
If net utilization percentage is: (cents)	
+12 or over.....	+38
+9 or +10.....	+28
+6 or +7.....	+20
+3 or +4.....	+10
+1 or -1.....	0
-3 or -4.....	-10
-6 or -7.....	-20
-9 or -10.....	-28
-12 or over.....	-38

When the net utilization percentage does not fall within a tabulated bracket, the supply-demand adjustment shall be determined by the adjacent bracket which is the same or nearest to the bracket used in the previous month. If in the first delivery period this supply-demand adjustment is in effect the net utilization percentage does not fall within a tabulated bracket, the supply-demand adjustment shall be determined by the adjacent bracket which would have been used in determining the supply-demand adjustment had it been in effect in the previous month.

§ 972.42 *Class II milk prices.* Subject to the provisions of §§ 972.44 through 972.47, the minimum prices per hundredweight of a 3.5 percent butterfat content basis to be paid by each handler for producer milk classified as Class II milk shall be the Class I milk price determined pursuant to § 972.41 minus 30 cents.

§ 972.43 *Class III milk prices.* Subject to the provisions of §§ 972.44 through 972.47, the minimum price per hundredweight on a 3.5 percent butterfat content basis to be paid by each handler for producer milk classified as Class III milk, shall be the basic formula price.

§ 972.44 *Butterfat differentials to handlers.* If the weighted average butterfat test of producer milk which is classified in any class, respectively, for any handler, is more or less than 3.5 percent, there shall be added to or subtracted from, as the case may be, the price for such class, for each one-tenth of one percent that such weighted average butterfat test is above or below 3.5 percent, a butterfat differential (computed to the nearest tenth of a cent) calculated by the market administrator for such class as follows:

(a) *Class I milk.* Multiply by 1.2 the average wholesale price per pound of 92-score butter at Chicago as reported by the Department of Agriculture for the delivery period, divide the result by 10 and add 1.0 cent.

(b) *Class II milk.* Multiply by 1.2 the average wholesale price per pound of 92-score butter at Chicago as reported by the Department of Agriculture for the delivery period, divide the result by 10 and add 0.5 cent.

(c) *Class III milk.* Multiply by 1.2 the average wholesale price per pound of 92-score butter at Chicago as reported by the Department of Agriculture for the delivery period and divide the result by 10.

§ 972.45 *Emergency price provisions.* Whenever the provisions of this part require the market administrator to use a specific price (or prices) for milk or any milk product for the purpose of de-

termining class prices or for any other purpose, the market administrator shall add to the specified price the amount of any subsidy or other similar payment being made by any Federal agency in connection with the milk, or product, associated with the price specified: *Provided*, That if for any reason the price specified is not reported or published as indicated, the market administrator shall use the applicable maximum uniform price established by regulations of any Federal agency plus the amount of any subsidy or other similar payment: *Provided further* That if the specified price is not reported or published and there is no applicable maximum uniform price, or if the specified price is not reported or published and the Secretary determines that the market price is below the applicable maximum uniform price, the market administrator shall use a price determined by the Secretary to be equivalent to or comparable with the prices specified.

§ 972.46 *Prices for Class I, Class II, and Class III milk: disposed of outside the marketing area.* The price for Class I, Class II, and Class III milk disposed of outside the marketing area by a handler shall be those applicable, respectively, pursuant to §§ 972.41 through 972.43, to Class I, Class II, and Class III milk disposed of by such handler in the marketing area.

§ 972.47 *Price of Class I or Class II milk transferred by one handler to another handler.* The price of Class I or Class II milk transferred by a handler to another handler shall be that applicable to Class I or Class II milk at the selling handler's fluid milk plant, pursuant to §§ 972.41 and 972.42: *Provided*, That any hauling charge with respect thereto chargeable to producers or to associations of producers shall not exceed that customarily applied to deliveries of such producers from their farms to the selling handler's fluid milk plant.

APPLICATION OF PROVISIONS

§ 972.50 *Producer-handlers.* Sections 972.30 through 972.47 and §§ 972.60 through 972.76 shall not apply to a producer-handler. Any handler who desires to qualify as a producer-handler shall furnish to the market administrator for his verification, subject to review by the Secretary, evidence of his qualifications satisfactory to the market administrator, and he shall furnish similar evidence of subsequent changes in his operations that affect his qualifications. Verification by the market administrator shall be made within 5 days after the date of receipt of such evidence, and shall be effective retroactively to the date on which the applicant became so eligible, but not earlier than the first day of the delivery period during which verification of such eligibility is made.

§ 972.51 *Exempt milk.* Milk received at a plant of a handler the handling of which the Secretary determines to be subject to the pricing and payment provisions of any other Federal milk marketing agreement or order issued pursuant to the act for any fluid milk marketing area shall not be subject to

the pricing and payment provisions of this part.

§ 972.52 *Milk caused to be delivered by an association of producers.* Milk referred to in this part as received from producers by a handler shall include producer milk caused to be delivered to such handler by an association of producers which is not a handler and which is authorized to collect payment for such milk.

§ 972.53 *Diverted milk.* Producer milk diverted by an operator of a fluid milk plant from such plant to a nonfluid milk plant shall be deemed to have been received by the fluid milk plant from which such milk was diverted. Producer milk diverted by an association of producers from a fluid milk plant to a nonfluid milk plant shall be deemed to have been received by such an association.

DETERMINATION OF UNIFORM PRICES

§ 972.60 *Computation of value of milk.* The value of producer milk received during each delivery period by each handler shall be a sum of money computed by the market administrator by (a) multiplying the pounds of such milk in each class for the delivery period, by the applicable class prices, and (b) adding together the resulting amounts: *Provided*, That if a handler, after subtracting other source milk and receipts from other handlers, has disposed of skim milk or butterfat in excess of the skim milk or butterfat which, on the basis of his reports, has been credited to producers as having been received from them, there shall be added an amount computed by multiplying the pounds in each class determined pursuant to § 972.36 (a) (5) and (b) by the applicable class prices.

§ 972.61 *Computation of uniform prices.* For each delivery period the market administrator shall compute for each handler a "uniform price" per hundredweight to be paid to producers and associations of producers for milk of 3.5 percent butterfat content received at fluid milk plants as follows:

(a) From the value of milk computed for such handler pursuant to § 972.60, subtract, if the weighted average butterfat test of producer milk represented by the value included under paragraph (a) of this section is greater than 3.5 percent, or add, if such butterfat test is less than 3.5 percent, an amount computed by multiplying the amount by which its weighted average butterfat test varies from 3.5 percent by the butterfat differential computed pursuant to § 972.70, and multiplying the resulting figure by the total hundredweight of such milk;

(b) Add or subtract, as the case may be, any amounts necessary to correct errors in classification for previous delivery periods as disclosed by audit by the market administrator;

(c) Adjust the resulting amount by the sum of money used in adjusting the uniform price pursuant to paragraph (e) of this section, for the previous month, to the nearest cent;

(d) Divide the result by the total hundredweight of producer milk represented by the value computed pursuant to § 972.60 and

(e) Adjust the resulting figure to the nearest cent.

§ 972.62 *Notification to handlers.* On or before the 10th day after the end of each delivery period, the market administrator shall notify each handler of:

- (a) The amount and value of his milk in each class and the totals thereof;
- (b) His uniform price; and
- (c) The amount to be paid by such handler pursuant to §§ 972.65 and 972.70.

PAYMENTS

§ 972.65 *Time and method of final payment.* Each handler shall make payment, subject to the provisions of §§ 972.66, 972.70, 972.75, and 972.76, for all producer milk received during each delivery period, as follows:

(a) Except as set forth in paragraph (b) of this section, to each producer, on or before the 18th day after such delivery period, at not less than such handler's uniform price for milk of 3.5 percent butterfat; and

(b) To an association of producers for milk to producers from whom such association has received written authorization to collect payment, on or before the 16th day after such delivery period, of a total amount equal to not less than the sum of the individual amounts otherwise payable to such producers under paragraph (a) of this section.

§ 972.66 *Partial payments.* Handlers shall make partial payments to producers as follows:

(a) On or before the last day of each delivery period, each handler shall make payment except as set forth in paragraph (b) of this section, to each producer at not less than such handler's uniform price of the preceding delivery period for the milk of such producer which was received by such handler during the first 15 days of the current delivery period; and

(b) On or before the day immediately preceding the last day of each delivery period, each handler shall make payment to an association of producers for milk of producers from whom such association has received written authorization to collect payment at not less than such handler's uniform price of the preceding delivery period for all such milk which was received by such handler during the first 15 days of the current delivery period.

§ 972.70 *Butterfat differential.* If, during the delivery period, any handler has received from any producer or from an association of producers, milk having a weighted average butterfat test other than 3.5 percent, such handler, in making the payments prescribed in § 972.65, shall add to, or subtract from the applicable uniform price per hundredweight, for each one-tenth of 1 percent of such butterfat test in milk above or below, as the case may be, 3.5 percent, an amount computed by the market administrator as follows: Multiply by 1.2 the average wholesale price per pound of 92-score butter at Chicago, as reported by the Department of Agriculture for the delivery period, divide the result by 10, and round to the nearest tenth of a cent.

§ 972.71 *Expense of administration.* As his pro rata share of the expense incurred pursuant to § 972.22 (d) each handler shall pay the market administrator, on or before the 13th day after the end of each delivery period, 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, to be announced by the market administrator on or before the 10th day after the end of such delivery period with respect to all receipts within the delivery period, of producer milk (including such handler's own production) and other source milk at his fluid milk plant classified as Class I milk pursuant to § 972.31 (a) (1) and Class II milk: *Provided*, That an association of producers shall pay such pro rata share of expense of administration on producer milk with respect to which it is a handler.

MARKETING SERVICE DEDUCTIONS

§ 972.75 *Payments to market administrator.* Except as set forth in § 972.70, each handler shall deduct an amount not exceeding 6 cents per hundredweight (the exact amount to be determined by the market administrator subject to review by the Secretary) from the payments due pursuant to § 972.65, with respect to all producer milk received by such handler (except milk of such handler's own production) during each delivery period and shall pay such deductions to the market administrator on or before the 13th day after such delivery period. Such moneys shall be used by the market administrator to make, or check, weights, samples, and tests of producer milk received by handlers and to provide producers with market information such services to be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

§ 972.76 *Payments to cooperative associations.* In the case of producers for whom a cooperative association which, as determined by the Secretary:

(a) Is engaged in the collective sale or marketing of their milk,

(b) Has its entire activities under the control of its members,

(c) Meets the standards set forth in the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," and

(d) Is actually performing the services set forth in § 972.75, each handler shall make, in lieu of the deductions specified in § 972.75, such deductions from the payments to be made to such producers as have been authorized by such producers and, on or before the 14th day after each delivery period, pay over such deductions to the cooperative association rendering such services.

ADJUSTMENT OF ACCOUNTS

§ 972.80 *Errors in payments.* Whenever audit by the market administrator of a handler's reports, books, records, or accounts discloses adjustments to be made, for any reason which result in moneys due:

(a) The market administrator from such handler,

(b) Such handler from the market administrator, or

(c) Any producer or association of producers from such handler, the market administrator shall promptly notify such handler of any such amount due; and explain the basis for such adjustment; and payment thereof shall be made on or before the next date for making payment set forth in the provision under which such error occurred; following the 5th day after such notice.

§ 972.81 *Overdue accounts.* Any unpaid obligation of a handler or of the market administrator pursuant to §§ 972.65 through 972.80 shall be increased one-half of one percent on the first day of the calendar month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

MISCELLANEOUS PROVISIONS

§ 972.85 *Effective time.* The provisions of this part, or any amendment of this part, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated, pursuant to § 972.86:

§ 972.86 *Suspension or termination.* The Secretary may suspend or terminate this part or any provision of this part, whenever he finds that this part or any provision of this part, obstructs, or does not tend to effectuate the declared policy of the act. This part shall terminate, in any event, whenever the provisions of the act authorizing it cease to be in effect.

§ 972.87 *Continuing power and duty of the market administrator.* If, upon the suspension or termination of any or all provisions of this part, there are any obligations arising under this part the final accrual or ascertainment of which requires further acts by any handler, the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate. The market administrator, or such other person as the Secretary may designate, shall:

(a) Continue in such capacity until discharged by the Secretary,

(b) From time to time account for all receipts and disbursements, and, when so directed by the Secretary, deliver all funds or property on hand, together with the books and records of the market administrator, to such person as the Secretary may direct, and

(c) If so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant to this part.

§ 972.88 *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions of this part, the market administrator, or such person as the Secretary may designate shall, if so directed by the Secretary, liquidate the business of the mar-

ket administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 972.89 *Agents.* The Secretary may, by designation in writing, name of any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 972.90 *Separability of provisions.* If any provision of this part, or the application thereof to any person or circumstances, is held invalid, the remainder of this part and the application of such provision to other persons or circumstances, shall not be affected thereby.

§ 972.91 *Termination of obligation.* The provisions of this section shall apply to any obligation under this part for the payment of money irrespective of when such obligation arose, except an obligation involved in an action instituted before August 1, 1949, under section 8c (15) (A) of the act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to the following information:

- (1) The amount of the obligation;
- (2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and
- (3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month fol-

lowing the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

Issued at Washington, D. C., this 29th day of October 1953 to be effective on and after November 1, 1953.

[SEAL] JOHN H. DAVIS,
Assistant Secretary of Agriculture.

[F. R. Doc. 53-9279; Filed, Oct. 30, 1953; 9:00 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter A—Income and Excess Profits Taxes [T. D. 6046; Regs. 129, 130]

PART 24—CONSOLIDATED INCOME AND EXCESS PROFITS TAX RETURNS

PART 40—EXCESS PROFITS TAX; TAXABLE YEARS ENDING AFTER JUNE 30, 1950

MISCELLANEOUS AMENDMENTS

In order to conform Regulations 129 (26 CFR Part 24) and Regulations 130 (26 CFR Part 40) to the provisions of Public Law 125, 83d Congress, approved July 16, 1953, relating to the extension until December 31, 1953, of the period with respect to which the excess profits tax shall be effective, such regulations are hereby amended as follows:

PARAGRAPH 1. Subdivision (iii) of § 24.31 (a) (90) is amended by striking "June 30, 1953" and "July 1, 1953" wherever such dates appear, and inserting in lieu thereof "December 31, 1953" and "January 1, 1954" respectively, so that such subdivision as amended shall read as follows:

(iii) In the case of a taxable year of the group beginning before January 1, 1954, and ending after December 31, 1953, such amount shall be reduced to an amount which is such part thereof as the number of days in such taxable year before January 1, 1954, is of the total number of days in such taxable year; and

(53 Stat. 32; 26 U. S. C. 62. Interprets or applies 53 Stat. 58, as amended; 26 U. S. C. 141)

PAR. 2. There is inserted immediately preceding § 40.430-1 the following:

PUBLIC LAW 125, 83D CONGRESS,
APPROVED JULY 16, 1953

* * * sections 430 (a), 430 (c), * * * of the Internal Revenue Code are amended, effective with respect to taxable years ending after June 30, 1953, by striking "June 30, 1953," and "July 1, 1953," wherever such dates appear, and inserting in lieu thereof "December 31, 1953," and "January 1, 1954," respectively.

PAR. 3. The second sentence of § 40.430-1 is amended by striking "July 1, 1953" and inserting in lieu thereof "January 1, 1954" so that such sentence as amended shall read as follows: "The excess profits tax is imposed upon the adjusted excess profits net income of every corporation, both domestic and foreign, for each taxable year ending after June 30, 1950, and beginning before January 1, 1954, except in the case of certain corporations which are exempt from the tax under the provisions of section 454."

PAR. 4. Paragraph (c) of § 40.430-2 is amended by striking "June 30, 1953" and "July 1, 1953" wherever such dates appear, and inserting in lieu thereof "December 31, 1953" and "January 1, 1954" respectively, so that such paragraph as amended shall read as follows:

(c) *Taxable years beginning before January 1, 1954, and ending after December 31, 1953.* In the case of a taxable year which begins before January 1, 1954, and ends after December 31, 1953, the excess profits tax will be an amount equal to that portion of a tentative tax determined under section 430 (a) and under (a) of this section as the number of days in such year prior to January 1, 1954, bears to the total number of days in such year.

PAR. 5. The last sentence of § 40.431-1, as added by Treasury Decision 6024, approved June 25, 1953, is amended by striking "June 30, 1953" and "July 1, 1953" and inserting in lieu thereof "December 31, 1953" and "January 1, 1954" respectively, so that such sentence as amended shall read as follows: "For treatment of taxable years beginning before January 1, 1954, and ending after December 31, 1953, see § 40.430-2 (c) "

PAR. 6. There is inserted immediately preceding § 40.432-1 the following:

PUBLIC LAW 125, 83D CONGRESS APPROVED
JULY 16, 1953

* * * sections * * * 432 (b) of the Internal Revenue Code are amended, effective with respect to taxable years ending after June 30, 1953, by striking "June 30, 1953," and "July 1, 1953," wherever such dates appear, and inserting in lieu thereof "December 31, 1953," and "January 1, 1954," respectively.

PAR. 7. The first and fourth sentences of paragraph (a) of § 40.432-1 are amended by striking "June 30, 1953" and "July 1, 1953" wherever such dates appear, and inserting in lieu thereof "December 31, 1953" and "January 1, 1954",

respectively, so that such sentences as amended shall read as follows: "Section 432 provides that the unused excess profits credit for any taxable year ending after June 30, 1950, and beginning before January 1, 1954, is the excess of the corporation's excess profits credit for such taxable year over its excess profits net income for such year computed without regard to the net operating loss deduction and computed on the basis of the excess profits credit applicable to such year. * * * If the taxable year begins before January 1, 1954, and ends after December 31, 1953, the unused excess profits credit will be an amount which is such portion of the unused excess profits credit determined under the general rule as the number of days in the taxable year before January 1, 1954, is of the total number of days in such taxable year."

Inasmuch as this Treasury decision merely provides for the extension, until December 31, 1953, of the period with respect to which the excess profits tax shall be effective, in conformity with the provisions of Public Law 125, 83d Congress, approved July 16, 1953, it is hereby found that it is unnecessary to issue such Treasury decision with notice and public procedure thereon under section 4 (a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4 (c) of that act.

(53 Stat. 32, 467; 26 U. S. C. 62, 3791. Interpret or apply 53 Stat. 58, as amended; 26 U. S. C. 141)

[SEAL] T. COLEMAN ANDREWS,
Commissioner of Internal Revenue.

Approved: October 28, 1953.

M. B. FOLSOM,
Acting Secretary of the Treasury.

[F. R. Doc. 53-9274; Filed, Nov. 2, 1953; 8:51 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

Subchapter C—Claims and Accounts

PART 836—CLAIMS AGAINST THE UNITED STATES

PART 1021—AIR FORCE EMERGENCY FACILITIES DEPRECIATION BOARD

REIMBURSEMENT TO OWNERS AND TENANTS OF LAND ACQUIRED BY THE AIR FORCE; LIST OF CONTRACTOR INFORMATION ON TRUE DEPRECIATION

1. The following amendments of §§ 836.124 and 836.134 were approved by the Secretary of Defense on September 28, 1953.

§ 836.124 *Delegation.* Authority is delegated to the Chief of Engineers, Department of the Army, and such officers and employees of the Corps of Engineers as he may designate and are approved by the Secretary of the Air Force, to perform all functions and make all determinations which are authorized to be performed by the Secretary of the Air Force with respect to reimbursement

under the provisions of section 401 (b) of the act.

(Sec. 401, 66 Stat. 624)

§ 836.134 *Delegation.* Authority is delegated to the Chief of Engineers, Department of the Army, and such officers and employees of the Corps of Engineers as he may designate and are approved by the Secretary of the Air Force, to perform all functions and make all determinations which are authorized to be performed by the Secretary of the Air Force with respect to reimbursement under the provisions of section 501 (b) of the act.

(Sec. 501, 65 Stat. 363)

2. The introductory paragraph of Appendix A to Part 1021 (18 F. R. 1445; 3689) is amended by adding at the end thereof the following sentence:

APPENDIX A—LIST OF CONTRACTOR INFORMATION ON TRUE DEPRECIATION

* * * The reporting and/or record-keeping requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942 (56 Stat. 1078; 5 U. S. C. 139-139f). (Bureau of the Budget No. 21-R060; Expiration—Indefinite.)

[SEAL]

E. L. WALTERS,
Colonel, U. S. Air Force,
Acting Air Adjutant General.

[F. R. Doc. 53-9234; Filed, Nov. 2, 1953; 8:45 a. m.]

Chapter XI—National Guard and State Guard, Department of the Army

PART 1101—NATIONAL GUARD REGULATIONS

MEDICAL ATTENDANCE AND BURIALS

Sections 1101.37 through 1101.40 are rescinded and the following substituted therefor:

§ 1101.37 *To whom applicable—*(a) *General.* Officers, warrant officers, and enlisted men of the National Guard who suffer personal injury or contract disease in the line of duty while en route to or from, or during their attendance at encampments, maneuvers, or other exercises, or at service schools, under the provisions of sections 94, 97, and 99 of the National Defense Act of June 3, 1916, as amended, and members of the National Guard of the United States who suffer injuries or contract disease in line of duty while on active duty under proper orders in time of peace shall, under such regulations as the President may prescribe, be entitled, at Government expense, to such hospitalization, rehospitalization, medical and surgical care, in hospital and at their homes, as is necessary for the appropriate treatment of such injury or disease, until the disability resulting from such injury or disease cannot be materially improved by further hospitalization or treatment. See act of June 15, 1936.

(b) *Aerial flights during armory training.* Officers, warrant officers, and enlisted men of the National Guard who

suffer injury (as distinguished from disease) in line of duty when participating in aerial flights, prescribed under the provisions of section 92 of the National Defense Act, shall be entitled to the same hospitalization, rehospitalization, medical and surgical care, pay and allowances, and transportation as if such injury had been suffered while in line of duty during their attendance at encampments, maneuvers, or other exercises, or at service schools, under the provisions of sections 94, 97, or 99 of the National Defense Act, as amended. See act of June 15, 1936 and act of October 14, 1940.

(c) *National Guard civilian personnel.* The provisions of this section and § 1101.38 do not apply to members of the National Guard not on active duty who are employed as administrative assistants; accounting clerks; maintenance personnel; rangekeepers; and administrative, supply, and maintenance technicians, and who become disabled during the normal discharge of their duties as civilian employees of the State by which employed.

§ 1101.38 *Pay and allowances—(a) Tours of active duty for training not to exceed 30 days' duration.* During hospitalization or rehospitalization, officers, warrant officers, and enlisted personnel of the National Guard shall be entitled to pay and allowances, either in money or in kind, but not for more than an aggregate period of 6 months after the termination of the prescribed tour of active duty for training.

(b) *Tours of active duty for training in excess of 30 days' duration.* Under Public Law 108, 81st Congress, officers, warrant officers, and enlisted personnel of the National Guard, are entitled to receive basic pay and allowances during their full period of hospitalization or rehospitalization if the tour of active duty for training is in excess of 30 days' duration.

(c) *Computation of pay and allowances.* The pay and allowances are to be computed at the same rate, and on the same basis as that to which officers, warrant officers, and enlisted personnel of the National Guard are entitled at the time injury is suffered or disease contracted. They shall also be entitled to the necessary transportation incident to hospitalization, rehospitalization, and return to their homes when discharged from the hospital. There is no provision under current law for the payment of members of the National Guard who are disabled, but not hospitalized. The term "hospitalized" shall be construed to include only that period of time that an individual is carried on the records of a hospital as a resident patient, including official sick leave. Pay is not authorized for periods between hospitalization and rehospitalization, or during periods of out-patient treatment, or other types of non-hospitalized medical care.

[NGR 62, Sept. 17, 1953] (Sec. 118, 39 Stat. 213; 32 U. S. C. 17. Interpret or apply 49 Stat. 1507; 32 U. S. C. 164a-164b)

[SEAL] WM. E. BERGIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 53-9270; Filed, Nov. 2, 1953; 8:50 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter XII—Defense Minerals Exploration Administration, Department of the Interior

[DMEA Order 1, Amdt. 3]

DMEA 1—GOVERNMENT AID IN DEFENSE EXPLORATION PROJECTS

RATIO OF CONTRIBUTIONS

In the formulation of this amendment there has been no consultation with industry representatives or trade association representatives because special circumstances have rendered such consultation impracticable and contrary to the interests of the national defense.

1. Section 7, after the colon in the first sentence, is amended to read as follows:

(a) In the case of chromium, copper, and molybdenum—50 percent.

(b) In the case of asbestos (chrysotile only), beryl, cobalt, columbium, manganese, mica (muscovite block and film only), nickel, platinum, tantalum, tungsten, and uranium—75 percent.

(c) In the event that two or more of the minerals named in this section are the subject of the proposed exploration, the allowable percentage shall be apportioned between them.

2. This amendment shall not apply to applications for exploration project contracts received by or placed in the United States mail for Defense Minerals Exploration Administration before 12 o'clock midnight of the day of its publication in the FEDERAL REGISTER.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

[SEAL] C. O. MITTENMORF,
Administrator, Defense Minerals
Exploration Administration.

OCTOBER 30, 1953.

[F. R. Doc. 53-9338; Filed, Nov. 2, 1953; 9:59 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of the Treasury

[CGFR 53-35]

Subchapter K—Security of Vessels

PART 121—SECURITY CHECK AND CLEARANCE OF MERCHANT MARINE PERSONNEL

Subchapter L—Security of Waterfront Facilities

PART 125—IDENTIFICATION CREDENTIALS FOR PERSONS REQUIRING ACCESS TO WATERFRONT FACILITIES FOR VESSELS

APPEAL AND REVIEW PROCEDURES FOR PERSONS DENIED SECURITY CLEARANCE

The purpose of the revised regulations set forth in this document and any changes from present procedures are intended, in effect, to provide that any seaman who is denied security clearance or any person denied a Coast Guard Port Security Card shall receive (1) a written notification of denial stating that such person is a poor security risk or is not

entitled to security clearance and this notification shall contain a statement of the basis of denial so worded with such specificity as to afford said person reasonable notice of the basis for denial and an opportunity to marshal evidence in refutation thereof, and otherwise in his behalf; and (2) that if such person appeals in accordance with the procedures in 33 CFR Part 121 as revised by this document, such person will be furnished a statement or bill of particulars setting forth the alleged acts, or associations, or beliefs, or other data which formed the basis for the determination that such person is a poor security risk or is not entitled to security clearance. However, in the administration of these revised regulations, the written notification of denial, the statement of the basis of denial, and the statement or bill of particulars shall not be worded with such specificity or particularity as to disclose the source of such information or data nor the identity of any person or persons who may have furnished such information or data to said person or other persons.

A person who has been denied security clearance before the date of publication of this document in the FEDERAL REGISTER may file a new appeal within 60 days of this date and such appeal will be handled and administered in accordance with the administrative appeal procedures in 33 CFR Part 121 as revised by this document. A person whose document evidencing security clearance has been revoked before the date this document is published in the FEDERAL REGISTER may file a new appeal within 60 days for reconsideration and such appeal will be considered in accordance with the administrative appeal procedures in 33 CFR Part 121 as revised by this document. The time limitation for filing an appeal may be waived by the Commandant, U. S. Coast Guard, upon written showing of good cause. The appeal for reconsideration of a denial of security clearance or the revocation of a document evidencing security clearance provided by this paragraph shall be submitted to the Chairman of the nearest Local Appeal Board.

It is hereby found that compliance with the notice of proposed rule making, public rule making procedures thereon, and effective date requirements of the Administrative Procedure Act is impractical since these changes clarify the right of appeal and appeal procedures to be followed and in the public interest should be placed in effect as soon as possible.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Executive Order 10173, as amended, the following amendments are prescribed and shall become effective immediately upon publication of this document in the FEDERAL REGISTER.

1. Section 121.15 (e) is amended to read as follows:

§ 121.15 *Issuance of documents bearing security clearance indorsement.*
* * *

(e) *Denial or revocation of clearance indorsement.* (1) When it is determined by the Commandant that a person to whom security clearance has been de-

nied or is not eligible therefor within the meaning of § 121.13 (d) (or § 125.29 of this chapter for a person denied access to waterfront facilities or vessels) such person shall be so notified in writing. This written notification shall contain a statement of the basis for the initial determination that he is not entitled to security clearance or that he is a poor security risk.

(2) When it is determined by the Commandant that a person to whom a document evidencing security clearance has been granted is not entitled thereto, or is not eligible therefor within the meaning of § 121.13 (d) (or § 125.29 of this chapter for a person denied access to waterfront facilities or vessels) such person shall be so notified in writing and he shall immediately surrender to the Coast Guard every Coast Guard document held by him which evidences security clearance. This written notification shall also contain a statement of the basis for the determination that he is a poor security risk or that he is not entitled to security clearance.

(3) The statement of the basis for the action taken under subparagraph (1) or (2) of this paragraph shall be worded with such specificity as to afford such person an opportunity to marshal evidence in refutation thereof, and otherwise in his behalf. This statement shall not be worded with such particularity as to disclose the source of such information or data, nor the identity of any person or persons who may have furnished such information or data, to said person or other persons.

2. Section 121.21 (a) (3) is amended to read as follows:

§ 121.21 *Chairman of the Board. duties and responsibilities.* (a) * * *

(3) Furnish the appellant with a written notification stating:

(i) The basis for the action in the form of a written statement or bill of particulars setting forth the alleged acts, or associations, or beliefs, or other data which formed the basis for the determination that the appellant is a poor security risk or is not entitled to security clearance. This statement or bill of particulars shall not be worded with such particularity or specificity as to disclose the source of such information or data, nor the identity of any person or persons who may have furnished such information or data, to the appellant or to other persons.

(ii) That, within a period of 10 days from the receipt of this notification, he may file, if he so desires, a written answer with the Chairman.

(iii) That, within 15 days after receipt of such notification, unless the appellant tenders a timely request for a postponement, the Local Appeal Board will meet to hear such evidence as the appellant desires to submit.

(iv) That, unless otherwise requested by the appellant, at least 48 hours' notice will be given of the date and place of hearing.

(v) That the appellant may appear personally before such Board; be present during the entire hearing; be represented by counsel, or other representative, of

his own choosing; and present evidence in his own behalf, through witnesses, or by documents, or both.

(vi) The names of the prospective members of the Board, their occupations, and the names of business or labor organizations or associations with which such persons are affiliated.

(vii) The appellant's privilege, for good cause shown, of challenging any member of the Board.

(40 Stat. 220, as amended; 50 U. S. C. 191, E. O. 10173, Oct. 18, 1950, 15 F. R. 7005; 3 CFR, 1950 Supp., as amended by E. O. 10277, Aug. 1, 1951, 16 F. R. 7537; 3 CFR, 1951 Supp., E. O. 10352, May 19, 1952, 17 F. R. 4607; 3 CFR, 1952 Supp.)

Section 125.33 is amended to read as follows:

§ 125.33 *Right of appeal.* Any person who has been denied a Coast Guard Port Security Card pursuant to § 125.29 or who has been required to surrender his Coast Guard Port Security Card pursuant to § 125.31 shall have the right to appeal from such action in the manner described and under the same conditions as set forth in Part 121 of Subchapter K of this chapter.

(40 Stat. 220, as amended; 50 U. S. C. 191, E. O. 10173, Oct. 18, 1950, 15 F. R. 7005; 3 CFR, 1950 Supp., as amended by E. O. 10277, Aug. 1, 1951, 16 F. R. 7537; 3 CFR, 1951 Supp., E. O. 10352, May 19, 1952, 17 F. R. 4607; 3 CFR, 1952 Supp.)

Dated: October 27, 1953.

[SEAL] MERLIN O'NEILL,
Vice Admiral, U. S. Coast Guard,
Commandant.

[F. R. Doc. 53-9272; Filed, Nov. 2, 1953;
8:51 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Orders [Public Land Order 925]

ALASKA

PARTIAL REVOCATION OF EXECUTIVE ORDER NO. 8216 OF JULY 25, 1939

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847 43 U. S. C. 141) and otherwise, and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Executive Order No. 8216 of July 25, 1939, reserving certain areas in Alaska for use of the Department of the Navy, is hereby revoked so far as it relates to the following-described lands:

Aleutski Island in Sitka Bay, approximate latitude 57°02'45" N., longitude 135°20' W.

The island, which is approximately five acres in area, is sparsely covered with Sitka Spruce of no commercial value. A major portion of the island is rocky and contains no growth other than moss and fern plants.

This order shall not otherwise become effective to change the status of such

lands until 10:00 a. m. on the 35th day after the signing of the order, at which time the land shall, subject to valid existing rights and to the provisions of existing withdrawals, be opened to settlement under the homestead laws and the homestead act of May 26, 1934 (48 Stat. 809 48 U. S. C. 461), and to those forms of appropriation only by qualified veterans of World War II for whose services recognition is granted by the act of September 27, 1944 (58 Stat. 747 43 U. S. C. 279-284) as amended, and by other qualified persons entitled to credit for service under the said act. Commencing at 10:00 on the 126th day after the date of this order, any of such land not settled upon by veterans or other persons entitled to credit for service shall become subject to settlement and other forms of appropriation by the public generally in accordance with appropriate laws and regulations.

Applications for this land, which shall be filed in the Land Office, Bureau of Land Management, Anchorage, Alaska, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations, to the extent that such regulations are applicable. Applications under the homestead or homestead laws shall be governed by the regulations contained in Parts 64 and 66, inclusive, of Title 43 of the Code of Federal Regulations. Inquiries concerning this land shall be addressed to the Manager, Land Office, Bureau of Land Management, Anchorage, Alaska.

ORME LEWIS,

Assistant Secretary of the Interior

OCTOBER 27, 1953.

[F. R. Doc. 53-9235; Filed, Nov. 2, 1953;
8:45 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

[Order No. 13528]

PART 132—POWER BRAKES AND DRAWBARS

INVESTIGATION OF POWER BRAKES AND APPLIANCES FOR OPERATING POWER BRAKE SYSTEMS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 26th day of October A. D. 1953.

Upon further consideration of the record in the above-entitled proceeding, and good cause appearing therefor:

It is ordered, That the order heretofore entered herein on September 21, 1945, as amended, requiring respondents to install power brakes and appliances on their cars used in freight service be, and it is hereby, further amended so as not to require the installation of such brakes and appliances on

a. Locomotives;

b. Scale test weight cars;

c. Locomotive cranes, steam shovels, pile drivers and similar construction and maintenance machines built prior to September 21, 1945;

d. Export, industrial, and other than railroad owned cars which are not to be used in service by respondents, except for movement as shipments on their own wheels to given destinations, provided that any such car so moved shall be properly identified by a card attached to each side of car, signed by shipper, stating that such movement is being made under authority of this order; and

e. Industrial and other than railroad owned cars which are not to be used in

service by respondents except for movement within the limits of a single switching district.

It is further ordered, That the effective date of said order of September 21, 1945, as amended, be, and it is hereby, extended until further order of the Commission, insofar as it applies to:

- f. Narrow-gauge cars, and
- g. Cars being returned from Canada or Mexico to owners in the United States, provided each such car being re-

turned is routed directly to owner and is properly identified by a card attached to each side of car, signed by shipper, stating that the movement is being made under authority of this order.

(Sec. 6, 36 Stat. 239, 45 U. S. C. 15)

By the Commission, Division 3.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 53-9263; Filed, Nov. 2, 1953; 8:59 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

17 CFR Part 903 I

[Docket No. AO 10-A18]

HANDLING OF MILK IN ST. LOUIS, MISSOURI, MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEP- TIONS WITH RESPECT TO PROPOSED AMENDMENT TO TENTATIVE MARKETING AGREEMENT, AND TO ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposal to amend the tentative marketing agreement and the order, as amended, regulating the handling of milk in the St. Louis, Missouri, marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C. not later than the close of business the 5th day after publication of this decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The hearing, on the record of which the following findings and conclusions were formulated, was conducted at St. Louis, Missouri, on October 12 and 13, 1953, pursuant to notice thereof which was issued on October 7, 1953 (18 F. R. 6384) and October 8, 1953 (18 F. R. 6409).

By an emergency action of the Assistant Secretary of Agriculture taken on October 26, 1953, decision has been made with respect to the Class I pricing provisions for the period through June 1954. Said decision reserved for later determination the remaining issues contained in the hearing record.

The remaining material issues of record, decision on which is herein recommended, related to:

1. The elimination of administrative assessments on milk subject to the Class I pricing provisions of other orders;
2. Minor modifications in the allocation provisions of the order; and
3. Calculation of shrinkage according to utilization of milk at the plant.

Findings and conclusions. The findings and conclusions with respect to the material issues herein decided, all of which are based on the evidence introduced at the hearing and the record thereof, are as follows:

1. The order should be amended to eliminate any duplication of administrative assessments on Class I milk received from other federally regulated markets. Milk coming to St. Louis from other regulated markets and allocated to Class I is now subject to administrative assessment in both markets. This represents a duplication in cost to handlers which is undesirable and unnecessary, since the amount of work involved in auditing and administering is approximately the same whether the milk is sold in the market where it originates or in a second regulated market. Information on such audits may be exchanged between administrators. The assessment should accrue to the administration fund in the market where the milk originates. If milk is sold to another regulated market from St. Louis, the regular assessment will accrue to the St. Louis administrator.

2. The allocation provisions of the order should be amended as follows:

(a) The allocation provisions of the order should be amended to place all handlers on an equal basis with respect to the assignment of producer milk to Class II before the allocation of milk priced as Class I under another order issued pursuant to the act.

Under the present provisions of the order, each handler is permitted to reserve an amount of Class II milk equivalent to no more than 5 percent of the milk received from producers for assignment to producer milk as Class II. This results in some inequality among handlers associated with differences in supply arrangements. In the case of a handler operating his own supply plants, this 5 percent is calculated on the basis of the quantity of milk received from producers at both supply plants and distributing plants. This is true even with respect to milk not moved between plants. On the other hand, a distribut-

ing plant operator depending upon unaffiliated supply plants for part of his milk may reserve only 5 percent of the producer milk received at his own plant. No credit is allowed for the milk received at the supply plants. Thus a multiple plant operator may have a larger proportionate assignment of milk as Class II shrinkage than the distributing plant operator who is purchasing milk from unaffiliated country plants.

In order to place all handlers on a more equal footing in this respect, the order should be amended so that the 5 percent maximum allocation to Class II will be calculated on the basis of only the approved milk received at the handler's distributing plants. It should apply, however, to approved milk from all pool supply plants as well as that received directly from producers. It would not apply to milk received at a supply plant but not shipped to a distributing plant or to milk received from other distributing plants. This will result in an allowance more nearly in line with the needs of the different handlers.

(b) The allocation provisions of the order should be amended to avoid the assignment of more approved milk to Class I sales in a plant than was actually received at such plant.

The order presently provides that milk received from producers shall be allocated to Class I sales on a priority basis for each handler. This applies whether or not the plant may dispose of Class I milk which does not carry a Grade A label. The basis for this allocation procedure is set forth in the decision of the Secretary issued July 15, 1953 (18 F. R. 4123). Said decision did not consider the possibility that Class I milk sold without a Grade A label from one plant might be assigned to producer milk disposed of as Class II milk in the second plant of the same handler. Evidence in this hearing record indicates, however, that such is now the case. A representative of one handler testified that Class I sales from its distributing plant exceeded receipts of approved milk at such plant. Because allocation of other source milk to Class II sales takes place on the basis of a handler's entire operation, ungraded milk is now assigned to Class II disposition of producer milk which takes place at its supply plant. This supply plant has no Class I disposition except that of bulk milk sales which are primarily to the handler's own

bottling and distributing plant. Since producer milk so disposed of as Class II in the supply plant is not physically available for sale as Class I milk in the distributing plant, it should not be assigned to such Class I sales. The order should therefore be amended to provide an exception which will avoid such assignment. This should apply only to plants which are permitted under the applicable health department regulations to bottle and sell non-Grade A milk to Class I outlets.

3. Shrinkage should be assigned to plants according to type of operation at the plant.

The order now provides that shrinkage may be classified as Class II milk up to a maximum of 2 percent of the milk received by the handler from producers. Two percent has been considered under the order as the maximum necessary allowance for the conduct of a fluid milk and surplus disposal business. Any loss in excess of that amount raises the question whether the handler has disposed of Class I milk for which he has failed to account.

The shrinkage allowance is now calculated for each individual handler's operation. No allowance applies to milk transferred between handlers. A considerable share of the milk in the St. Louis market is received at country receiving stations and is transported to city bottling plants for distribution to consumers. Much of the loss sustained in the processing and distribution of fluid milk is incurred at the plant where the milk is packaged for sale to consumers.

At the present time, a plant having its own country receiving stations is allowed maximum shrinkage on the basis of producer receipts at all of its plant locations. However, a bottling plant buying milk from unaffiliated country stations is allowed shrinkage on only that portion of the milk received directly from producers at the bottling plant. While the country receiving stations supplying such a plant are allowed the full 2 percent shrinkage, these plants do not ordinarily incur such shrinkage. There is no opportunity at the present time for the shrinkage which may be incurred in the bottling of milk from unaffiliated supply plants to be classified as Class II milk, except as such shrinkage does not exceed the difference between the shrinkage allowed on direct producer receipts and the shrinkage experienced on such receipts.

The order should be amended therefore to allow a lesser rate of Class II shrinkage if the milk is simply received at a pool plant and shipped in bulk. The reduction thus brought about in allowable shrinkage should be transferred to the pool plant receiving and processing or distributing such milk.

Other source milk should be subject to the same provisions as producer milk in order to place it on a comparable basis. Thus, other source milk received as bulk from farmers and not shipped in bulk would be subject to a maximum allowance of 2 percent. If other source milk were received as bulk milk and not reshipped in bulk, it would be subject to a 1.5 percent allowance.

No shrinkage allowance as Class II should be permitted on milk received as bulk milk and reshipped in the same form, nor on milk diverted to non-pool plants. If milk is processed or separated at the plant where received, the shrinkage will be allowed at such plant.

Rulings on proposed findings and conclusions. Written arguments and proposed findings and conclusions submitted on behalf of interested persons concerning issues on which decision is herein recommended were considered, along with the evidence in the record, in making the findings and reaching the conclusions herein set forth. To the extent that the proposed findings and conclusions differ from the findings and conclusions contained herein, the specific or implied requests to make such findings are denied because of the reasons stated in support of the findings and conclusions in this decision.

General findings. (a) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to Section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply of and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(c) The proposed order, as amended, and as hereby proposed to be further amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Recommended marketing agreement and order amending the order as amended. The following order amending the order, as amended, is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be identical with those contained in the order, as amended, and as hereby proposed to be further amended.

1. Delete § 903.87 (b) and substitute therefor the following:

(b) Received at a pool plant as Grade A other source milk (except milk subject to the Class I pricing provisions of another order issued pursuant to the act) and allocated to Class I, or

2. Delete § 903.45 (a) (4) and substitute therefor the following:

(4) Subtract from the pounds of skim milk remaining in Class II milk an amount equal to such remainder, or the product obtained by multiplying by 0.05 the pounds of skim milk in approved milk received at plants qualified pursuant

to § 903.10 (a) from (i) producers and (ii) plants qualified pursuant to § 903.10 (b) whichever is less:

3. Delete § 903.41 (a) (3) and substitute therefor the following:

(3) In shrinkage not to exceed an amount calculated (except with respect to milk diverted to a non-pool plant pursuant to § 903.7) as follows:

(i) 0.5 percent of milk received from dairy farmers and disposed of in the form of bulk milk;

(ii) 1.5 percent of milk received as other source milk or bulk approved milk and disposed of in a form other than bulk milk: *Provided*, That any disposition of milk in bulk form shall be assigned first to receipts of bulk milk;

(iii) 2.0 percent of milk received from dairy farmers and disposed of in a form other than bulk milk;

Provided, That shrinkage of skim milk and butterfat shall be assigned to skim milk and butterfat, respectively in approved milk and in other source milk as determined pursuant to this paragraph.

4. In § 903.45 (a) (1) delete the word "producer" and substitute therefor the word "approved."

5. Delete § 903.45 (a) (3) and substitute therefor the following:

(3) Subtract from the pounds of skim milk remaining in Class II milk the remaining pounds of skim milk in other source milk which was not subject to the Class I pricing provisions of an order issued pursuant to the act: *Provided*, That skim milk so subtracted from Class II pursuant to this paragraph shall not result in the assignment of more skim milk in approved milk to Class I in a plant which is permitted to receive and bottle Grade A and non-Grade A milk than is contained in the approved milk received at such plant: *And provided further*, That if the pounds of skim milk to be subtracted is greater than the remaining pounds of skim milk in Class II, the balance shall be subtracted from the pounds of skim milk in Class I;

6. Delete § 903.52 and substitute therefor the following:

§ 903.52 *Location differentials to handlers.* With respect to skim milk and butterfat contained in milk received from producers at a pool plant in Meramec or Bonhomme townships, St. Louis County, Missouri (except in the cities of Valley Park and Kirkwood), or outside the marketing area, which is classified as Class I milk, the price per hundredweight shall be reduced by the amounts set forth in the following schedule according to the airline distance from the plant where the milk is received from producers, or the plant from which the milk is diverted, to the City Hall in St. Louis:

Mileage:	Allowance (cents)
Not more than 10 miles-----	0
More than 10 but not more than 20 miles-----	12
More than 20 but not more than 30 miles-----	14
More than 30 but not more than 40 miles-----	16
For each additional 10 miles or fraction thereof an additional----	1

Provided, That for the purposes of calculating such location differential with respect to milk transferred between pool plants, the Class II approved milk remaining in the transferee plant after deducting therefrom the amount of such milk or an amount equivalent to 0.05 times the producer milk at such plant, whichever is less, shall be assigned to approved milk from other plants in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential, and then to producer milk.

Filed at Washington, D. C., this 28th day of October 1953.

[SEAL] ROY W. LENNARTSON,
Assistant Administrator

[F. R. Doc. 53-9248; Filed, Nov. 2, 1953;
8:47 a. m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 14]

[Docket No. FDC-26 (a)]

CACAO PRODUCTS; DEFINITIONS AND STANDARDS OF IDENTITY

COUMARIN

In the matter of amending the definitions and standards of identity for chocolate liquor, chocolate, baking chocolate, bitter chocolate, cooking chocolate, chocolate coating, bitter chocolate coating; breakfast cocoa, high-fat cocoa; sweet chocolate, sweet chocolate coating; and milk chocolate, sweet milk chocolate, milk chocolate coating, sweet milk chocolate coating:

By virtue of the authority vested in the Secretary of Health, Education, and Welfare by the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055; 21 U. S. C. 341, 371, .67 Stat. 18) and upon the basis of substantial evidence received at the public hearing held pursuant to the notice published in the FEDERAL REGISTER

on August 5, 1953 (18 F. R. 4606), it is proposed that the following order be made:

Findings of fact. 1. Based on evidence taken at a hearing held beginning December 9, 1940, an proposals to adopt definitions and standards of identity for various cacao products, coumarin (among other designated substances) was found to be a suitable artificial flavoring ingredient and accordingly it was listed as a permitted optional ingredient in the definitions and standards of identity for chocolate liquor (21 CFR 14.2) breakfast cocoa (21 CFR 14.3), sweet chocolate (21 CFR 14.6) and milk chocolate (21 CFR 14.7). By reference it also became an optional ingredient in the definitions and standards of identity for cocoa (21 CFR 14.4) low-fat cocoa (21 CFR 14.5) skim milk chocolate (21 CFR 14.8) buttermilk chocolate (21 CFR 14.9) mixed dairy product chocolate (21 CFR 14.10) sweet chocolate and vegetable fat (other than cocoa fat) coating (21 CFR 14.11) sweet cocoa and vegetable fat (other than cocoa fat) coating (21 CFR 14.12) (Ex. 2.)

2. Recent investigations have shown that coumarin has toxic properties, should now be classed as a poisonous and deleterious substance, and is not suitable for use in foods, and so is not a suitable optional ingredient of the various chocolate products named in finding 1. (R. 6-17; Ex. 3, 4.)

Conclusion. It is concluded that it will promote honesty and fair dealing in the interest of consumers to amend the definitions and standards of identity for the various cacao products named in finding 1 to repeal all provisions making coumarin an optional ingredient in such definitions and standards of identity.

Therefore, it is proposed that Part 14—Cacao Products; Definitions and Standards of Identity be amended in the following respects:

1 a. In § 14.2 (a) (3), omit the word "coumarin"

b. In § 14.2 (b), last sentence, change the statement "With Added Cinnamon, Vanilla, and Coumarin, an Artificial Flavoring" to read "With Added Cinna-

mon, Vanilla, and Ethyl Vanillin, an Artificial Flavoring."

2 a. In § 14.3 (a) (3) omit the word "coumarin"

b. In § 14.3 (b) last sentence, change the statement "With Added Cinnamon, Vanilla, and Coumarin, an Artificial Flavoring" to read "With Added Cinnamon, Vanilla, and Ethyl Vanillin, an Artificial Flavoring."

3 a. In § 14.6 (a) (2) omit the word "coumarin"

b. In § 14.6 (e) last sentence, change the statement "With Added Cinnamon, Vanilla, and Coumarin, an Artificial Flavoring" to read "With Added Cinnamon, Vanilla, and Ethyl Vanillin, an Artificial Flavoring."

4a. In § 14.7 (a) (2), omit the word "coumarin"

b. In § 14.7 (c) (3) last sentence, change the statement "With Added Emulsifier and Coumarin, an Artificial Flavoring" to read "With Added Emulsifier and Ethyl Vanillin, an Artificial Flavoring."

Any interested person whose appearance was filed at the hearing may, within 30 days from the date of the publication of this tentative order in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D. C., written exceptions thereto. Exceptions shall point out with particularity the alleged errors in this tentative order and shall contain specific references to the pages of the transcript of the testimony or to the exhibits on which such exceptions are based. Such exceptions may be accompanied by a memorandum or brief in support thereof. Exceptions and accompanying memoranda or briefs shall be submitted in quintuplicate.

Dated: October 28, 1953.

[SEAL] NELSON A. ROCKEFELLER,
Acting Secretary.

[F. R. Doc. 53-9250; Filed, Nov. 2, 1953;
8:47 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

United States Coast Guard

[CGFR 53-43]

ACCEPTANCE OF CERTIFICATES ISSUED PURSUANT TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1948

1. The Proclamation of the President, dated September 10, 1952, quoted the International Convention for the Safety of Life at Sea, 1948, which was signed at London on June 10, 1948 (hereinafter referred to as "1948 Convention") and declared that this 1948 Convention shall be observed and in effect on and after November 19, 1952, for the United States

of America (see Treaties and Other International Acts, Series 2495, issued by the Department of State).

2. The 1948 Convention states that each Contracting Government, or a person or organization duly authorized to perform the function for such country, shall issue to a vessel of her registry, which is subject to the provisions of the Convention, the applicable certificates described in Regulation 11 of Chapter I, when such vessel is in compliance with the Convention. The United States Coast Guard will accept and recognize

¹The citations following each finding of fact refer to the pages of the transcript of the testimony and the exhibits received in evidence at the hearing.

valid certificates issued by a country that has acceded to the 1948 Convention. Therefore, such a vessel carrying valid applicable certificates will be subject to an inspection by the United States Coast Guard to the extent necessary to satisfy the marine inspectors that the condition of the vessel, her boilers, lifesaving equipment, fire-fighting equipment, etc., are as stated in the certificates held by such vessel.

Dated: October 27, 1953.

[SEAL] MERLIN O'NEILL,
Vice Admiral, U. S. Coast Guard,
Commandant.

[F. R. Doc. 53-9271; Filed, Nov. 2, 1953;
8:50 a. m.]

[CGFR 53-44]

DENUNCIATION OF THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1929, AND DETERMINATIONS REGARDING CERTIFICATES

1. Executive Order 10402, dated October 30, 1952 (17 F. R. 9917, 3 CFR, 1952 Supp.) superseded Executive Order 7548, dated February 5, 1937, entitled "Enforcement of the Convention for the Safety of Life at Sea, 1929," to the extent that the International Convention for the Safety of Life at Sea, 1948, which was signed at London June 10, 1948 (hereinafter referred to as "1948 Convention") replaces and abrogates the International Convention for the Safety of Life at Sea, 1929, which was signed at London on May 31, 1929 (hereinafter referred to as "1929 Convention")

2. The United States of America denounced the 1929 Convention on November 19, 1952. By the terms of Article 66 of the 1929 Convention this denunciation becomes effective on November 19, 1953.

Therefore, on and after November 19, 1953, the United States Coast Guard will not accept nor recognize any certificate held by a vessel issued pursuant to the 1929 Convention except as authorized by the 1948 Convention. The acceptance of 1929 Convention certificates held by a foreign vessel will be in accordance with her status as follows:

(a) Up to November 19, 1953, a vessel of a country which is a party to the 1929 Convention is entitled to claim recognition by the United States of a valid certificate issued pursuant to the 1929 Convention.

(b) On and after November 19, 1953, a vessel of a country which is a party to the 1929 Convention but which has not accepted nor acceded to the 1948 Convention will not be entitled to claim recognition by the United States or certificates issued pursuant to the 1929 Convention.

(c) On and after November 19, 1953, a vessel belonging to a country which is a party to the 1929 Convention and which has accepted or acceded to the 1948 Convention will be entitled to claim recognition of her 1929 Convention certificates under Regulation 77 of Chapter I of the 1948 Convention during a period of one year from the date on which her country's ratification or acceptance of the 1948 Convention becomes effective.

(d) Between the date of November 19, 1953, and the effective date of her country's ratification or acceptance of the 1948 Convention deposited subsequent to August 19, 1953, a vessel of a country which is also a party to the 1929 Convention will not be entitled to claim recognition of her certificates issued under the 1929 Convention by virtue of the authority of Regulation 11 of Chapter I of the 1948 Convention (see subparagraph (c) above for acceptance of certificates held by a vessel after the effective date of her country's ratification or acceptance of the 1948 Convention)

3. The findings and decisions of the Acting Secretary of Commerce regarding acceptance of valid safety certificates issued pursuant to the 1929 Convention, which were published as Department of Commerce Circular No. 297, dated Octo-

ber 8, 1935, and reaffirmed by the Commandant, United States Coast Guard, in an order dated March 5, 1942, are canceled effective November 19, 1953, because they are no longer applicable. The acceptance by the United States Coast Guard of certificates held by a foreign vessel pursuant to the 1948 Convention is set forth in a separate document entitled "Acceptance of Certificates Issued Pursuant to the International Convention for the Safety of Life at Sea, 1948" and is further identified as Coast Guard Document CGFR 53-43.

Dated: October 27, 1953.

[SEAL] MERLIN O'NEILL,
Vice Admiral, U. S. Coast Guard,
Commandant.

[F. R. Doc. 53-9273; Filed, Nov. 2, 1953;
8:51 a. m.]

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

ASSISTANT COMMISSIONER, INSPECTIONS AND EXAMINATIONS DIVISION

DELEGATION OF FINAL AUTHORITY WITH RESPECT TO ADJUSTMENT OF IMMIGRATION STATUS

The following amendment to the Statement of Organization of the Immigration and Naturalization Service (17 F. R. 11613, Dec. 19, 1952) as amended, is hereby prescribed:

Section 1.31 is amended by adding paragraph (fff) which, when taken with the introductory material, will read as follows:

SEC. 1.31 *Final authority: delegation to Assistant Commissioner Inspections and Examinations Division.* The Assistant Commissioner, Inspections and Examinations Division, has been delegated final authority to take any action required or authorized to be taken by Chapter I of Title 8 of the Code of Federal Regulations with respect to the following matters:

(fff) Adjustment of Immigration status as provided in section 6 of the Refugee Relief Act of 1953 and 8 CFR Part 481.

Dated: October 16, 1953.

HERBERT BROWNELL, Jr.,
Attorney General.

Recommended: September 22, 1953.

ARGYLE R. MACKEY,
Commissioner of Immigration
and Naturalization.

[F. R. Doc. 53-9249; Filed, Nov. 2, 1953;
8:47 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. E-6199, IT-5891, IT-5932]

BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

NOTICE OF REQUEST FOR CONFIRMATION AND APPROVAL OF REVISED RATES AND CHARGES FOR SALE OF POWER FROM FORT PECK PROJECT

OCTOBER 28, 1953.

In the matter of Bureau of Reclamation, Department of Interior, Fort Peck

Project, Montana, Docket Nos. E-6199, IT-5891, IT-5932.

Notice is hereby given that the Commissioner of the Bureau of Reclamation, Department of Interior, on September 28, 1953, with amendment thereto on October 20, 1953, filed with the Federal Power Commission (F. P. C.) for confirmation and approval, pursuant to the provisions of the Fort Peck Act (52 Stat. 403) the following revised schedules of rates for the sale of power by the Fort Peck Project:

Schedule R6-F4—Schedule of Rates for Wholesale Firm Power Service modifying and superseding Schedule R6-F2 approved by F. P. C. by order of April 6, 1945, in Docket No. IT-5891.

Schedule R6-S4—Schedule of Rates for Wholesale Firm Power Service for Limited Period modifying and superseding Schedule R6-S2 approved by order of F. P. C. issued June 30, 1949, in Docket No. E-6199.

Schedule R6-S5—Schedule for rates for Wholesale Power Service for Customers Having Their Own Generating Facilities modifying and superseding Schedule R6-S1 approved by order of F. P. C. issued April 28, 1949, in Docket No. IT-5891.

Special rate for sale of electric energy to Montana-Dakota Utilities Co. modifying and superseding the special rate approved by F. P. C. by order of April 6, 1945, in Docket No. IT-5932.

The new rates modify the rates now in effect principally by substituting for the present minimum monthly bill provisions for a minimum annual capacity charge as follows:

For first 12 full billing period: \$7.20 per kilowatt of 80 percent of contract rate of delivery.

For second 12 full billing periods: \$7.20 per kilowatt of 90 percent of contract rate of delivery.

For subsequent billing periods: \$7.20 per kilowatt of 100 percent of contract rate of delivery.

Rate Schedules R6-F4, R6-S4 and R6-S5 provide further with respect to the minimum annual capacity charge that subsequent increases in rates of delivery after initial service under the schedule shall be considered separately in like manner.

Any person desiring to make comments or suggestions with respect to the above should submit the same on or before November 18, 1953, to the Federal Power Commission, Washington 25, D. C.

[SEAL] J. H. GUTHRIE,
Acting Secretary.

[F. R. Doc. 53-9257; Filed, Nov. 2, 1953;
8:48 a. m.]

[Docket Nos. G-2122, G-2155]

ARKANSAS LOUISIANA GAS CO.

NOTICE OF ORDER AFFIRMING INITIAL DECISION

OCTOBER 28, 1953.

Notice is hereby given that on October 26, 1953, the Federal Power Commission issued its order adopted October 21, 1953, in the above-entitled matters,

affirming initial decision of the Presiding Examiner issued in said dockets.

[SEAL]

J. H. GUTHRIE,
Acting Secretary.

[F. R. Doc. 53-9238; Filed, Nov. 2, 1953;
8:45 a. m.]

[Docket Nos. G-2222, G-2235, G-2243, G-2244,
G-2271]

ALABAMA-TENNESSEE NATURAL GAS CO.
ET AL.

ORDER DENYING REQUEST FOR SHORTENED
PROCEDURE, SEVERING PART OF AN APPLI-
CATION, CONSOLIDATING PROCEEDINGS,
PERMITTING INTERVENTION, FIXING DATE
OF HEARING AND SPECIFYING PROCEDURE

In the matters of Alabama-Tennessee
Natural Gas Company, Docket No. G-
2222; The Waterworks and Gas Board of
the Town of Cherokee, Alabama, Docket
No. G-2235; City of Russellville, Alabama,
Docket No. G-2243; The Lawrence-Col-
bert Counties Gas District, Docket No.
G-2244; Tennessee Gas Transmission
Company, Docket No. G-2271.

Alabama-Tennessee Natural Gas Com-
pany (Alabama-Tennessee) a Delaware
corporation having its principal place of
business in Florence, Alabama, on August
5, 1953, filed an application for a certi-
ficate of public convenience and necessity
pursuant to section 7 (c) of the Natural
Gas Act, authorizing the construction
and operation of approximately 13.2
miles of 12- and 8-inch loop pipe line, to-
gether with a 350 BHP compressor sta-
tion to be located in Colbert County,
Alabama, for the purpose of increasing
its system capacity to meet the estimated
peak requirements of its customers dur-
ing the 1953-1954 winter, all as more
fully described in said application, as
supplemented, on file with the Commis-
sion and open to public inspection.

The Waterworks and Gas Board of
the Town of Cherokee, Alabama (Chero-
kee) a municipal corporation located in
the State of Alabama, on August 31, 1953,
filed an application pursuant to section
7 (a) of the Natural Gas Act for an
order directing Alabama-Tennessee to
establish physical connection of its
transmission facilities near the Town of
Cherokee with the proposed facilities of,
and to deliver and sell natural gas to,
Cherokee for resale, all as more fully
described in said application on file with
the Commission and open to public
inspection.

The City of Russellville, Alabama
(Russellville) a municipal corporation
located in the State of Alabama, on Sep-
tember 8, 1953, filed an application pur-
suant to section 7 (a) of the Natural Gas
Act for an order directing Alabama-
Tennessee to establish physical connec-
tion of its transmission facilities near
the City of Tuscumbia, Alabama, with
the proposed facilities of, and to deliver
and sell natural gas to, Russellville for
resale, or to the Gas Board of the City of
Russellville for resale if the creation of
such a Gas Board is deemed necessary,
all as more fully described in said appli-
cation on file with the Commission and
open to public inspection.

The Lawrence-Colbert Counties Gas
District (Gas District), a public corpora-
tion organized under the laws of the
State of Alabama, on September 8, 1953,
filed an application pursuant to section
7 (a) of the Natural Gas Act for an order
directing Alabama-Tennessee to estab-
lish physical connection of its transmis-
sion facilities with the proposed facili-
ties of, and to deliver and sell natural gas
to, Gas District for resale, all as more
fully described in said application on file
with the Commission and open to public
inspection.

Tennessee Gas Transmission Com-
pany (Tennessee) a Delaware corpora-
tion having its principal place of business
in Houston, Texas, on October 12, 1953,
filed an application for a certificate of
public convenience and necessity pur-
suant to section 7 (c) of the Natural Gas
Act, authorizing the transportation and
sale of natural gas in increased volumes
to Alabama-Tennessee, Tennessee Nat-
ural Gas Lines, Inc. and Western Ken-
tucky Gas Company for the purpose of
enabling these customer companies to
meet their requirements during the 1953-
1954 winter, all as more fully described
in said application on file with the Com-
mission and open to public inspection.

The applicants herein for relief under
section 7 (a) of the Natural Gas Act,
Cherokee in Docket No. G-2235, Russell-
ville in Docket No. G-2243, and Gas
District in Docket No. G-2244, each filed,
on September 21, 1953, an amendment
to the respective applications requesting
that the order entered in each proceed-
ing also direct Tennessee, Alabama-Ten-
nessee's sole supplier, "to sell natural gas
to Alabama-Tennessee in quantities and
amounts sufficient to meet the require-
ments of * * * (each) Applicant as well
as Alabama-Tennessee's other cus-
tomers."

Alabama-Tennessee and Tennessee
have each requested that their respective
applications herein be heard under the
shortened procedure provided by § 1.32
(b) (18 CFR 1.32 (b)) of the Commis-
sion's rules of practice and procedure.

Due notice of the filing of said appli-
cation by Alabama-Tennessee has been
given, including publication in the *FED-
ERAL REGISTER* on August 27, 1953 (18
F. R. 5127). Notices of the filing of the
applications by Cherokee, Russellville,
Gas District and Tennessee were pub-
lished in the *FEDERAL REGISTER* on Octo-
ber 23, 1953 (18 F. R. 6740 and 6741).
The time within which protests or peti-
tions to intervene with respect to the
latter four applications may be filed will
expire November 9, 1953.

Alabama-Tennessee filed separate an-
swers to the applications of Cherokee,
Russellville and Gas District, respec-
tively, on September 30, 1953, requesting
dismissal of all of the said applications
for the principal reason that Alabama-
Tennessee's ability to render adequate
service to its existing customers would
be impaired due to capacity limitations
if the applications were granted.

Tennessee has not filed answers to the
amendments to the applications herein
of Cherokee, Russellville and Gas Dis-
trict.

Petitions seeking leave to intervene in
the proceeding in Docket No. G-2222

were filed by Cherokee on September 2,
1953, and by Russellville and Gas Dis-
trict on September 8, 1953.

A petition seeking leave to intervene
in the proceeding in Docket No. G-2222
was filed by the Town of Selmer, Tennes-
see, on September 9, 1953. A joint peti-
tion seeking leave to intervene in the
proceeding in Docket No. G-2222 was
filed by the Cities of Athens, Decatur,
Florence, Hartselle, Huntsville, Sheffield
and Tuscumbia, Alabama, and the Cities
of Corinth and Iuka, Mississippi, on Sep-
tember 10, 1953. All of the above-named
communities purchase their entire sup-
ply of natural gas from Alabama-Ten-
nessee. The joint petition was not filed
within the time prescribed by the Com-
mission's rules of practice and proce-
dure.

An answer to the petitions of Cherokee,
Russellville and Gas District to intervene
in Docket No. G-2222 was filed by Ala-
bama-Tennessee on September 17, 1953,
raising numerous objections, principally
that permitting intervention would delay
the proceedings in Docket G-2222 to the
detriment of existing customers. A joint
motion in opposition to the petitions of
Cherokee and Russellville to intervene in
Docket No. G-2222 was filed by the Cities
of Athens, Decatur, Florence, Hartselle,
Huntsville, Sheffield and Tuscumbia,
Alabama, Corinth and Iuka, Mississippi,
and Selmer, Tennessee, on September 14,
1953, raising generally the same objec-
tions as those raised by Alabama-Ten-
nessee. A memorandum in support of
the petitions to intervene by Cherokee,
Russellville and Gas District in Docket
No. G-2222 was filed by the said com-
munities and Gas District on October 1,
1953.

Separate joint petitions for interven-
tion in the proceedings in Docket Nos.
G-2235, G-2243 and G-2244 were filed
by the Cities of Athens, Decatur, Flo-
rence, Hartselle, Huntsville, Sheffield and
Tuscumbia, Alabama, Corinth and Iuka,
Mississippi, and Selmer, Tennessee, on
September 29, 1953.

Separate motions by the applicants in
Docket Nos. G-2235, G-2243 and G-2244
to consolidate the proceedings in each of
these dockets with the proceeding in
Docket No. G-2222 were filed September
21, 1953. A joint answer in opposition
was filed by the Cities of Athens, De-
catur, Florence, Hartselle, Huntsville,
Sheffield and Tuscumbia, Alabama,
Corinth and Iuka, Mississippi, and Sel-
mer, Tennessee, on September 29, 1953,
raising generally the same objections
urged against granting the petitions to
intervene by Cherokee, Russellville and
Gas District in Docket No. G-2222.
Alabama-Tennessee filed objections to
the above motion to consolidate on Sep-
tember 30, 1953.

A joint application by the Cities of
Haleyville and Phil Campbell, Alabama,
for an order and relief similar to that
requested herein in Docket Nos. G-2235,
G-2243 and G-2244 was withdrawn and
canceled, as was a petition to intervene
in the proceedings in Docket No. G-2222,
after the City Council of the City of
Haleyville by resolution authorized and
directed such action with respect to the
City of Haleyville. Accordingly, any
pleadings in response to or with refer-

ence to said application and petition to intervene by the Cities of Haleyville and Phil Campbell will not be considered herein.

The Commission finds:

(1) Good cause has not been shown for granting Alabama-Tennessee's request that its application herein be heard under the shortened procedure as provided by the Commission's rules of practice and procedure, and good cause has likewise not been shown for granting Tennessee's request that its application herein be heard under the shortened procedure, so far as the latter application involves transportation and sale of additional volumes of gas to Alabama-Tennessee, and said requests should be denied as and to the extent hereinafter ordered.

(2) That portion of the application in Docket No. G-2271, involving transportation and sale of additional volumes of gas to Alabama-Tennessee, should be severed from the other matters contained in the said application in Docket No. G-2271 for the purpose of separate hearing and disposition and should further be consolidated with the other above-entitled proceedings because such portion of the said application in Docket No. G-2271, and the matters contained in the application in Docket No. G-2222, are interdependent.

(3) Although the joint petition to intervene in the proceeding in Docket No. G-2222 by the Cities of Athens, Decatur, Florence, Hartselle, Huntsville, Sheffield and Tusculumbia, Alabama, and Corinth and Iuka, Mississippi, was not filed within the time required by § 1.8 of the Commission's rules of practice and procedure, good cause exists to permit the late filing.

(4) The participation by intervention of Cherokee, Russellville and Gas District, the Town of Selmer, Tennessee, and of the above-named joint petitioners in the proceeding in Docket No. G-2222, and the participation of the above-named joint petitioners in the proceedings in Docket Nos. G-2235, G-2243 and G-2244, may be in the public interest.

(5) Good cause exists to consolidate all the above-entitled applications, including a portion of the application in Docket No. G-2271, for the purpose of hearing.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and it is in the public interest that the procedure hereinafter prescribed with respect to exhibits and prepared testimony be ordered.

The Commission orders:

(A) Alabama-Tennessee's request that its application herein be heard under the shortened procedure provided by § 1.32 (b) of the Commission's rules of practice and procedure and Tennessee's request that its application herein be heard under the shortened procedure, so far as the latter application involves transportation and sale of additional volumes of gas to Alabama-Tennessee, be and the same are hereby denied.

(B) That portion of the application in Docket No. G-2271, involving transportation and sale of additional volumes of gas to Alabama-Tennessee, be and the same is hereby severed from the

other matters contained in the said application in Docket No. G-2271 for the purpose of separate hearing and disposition.

(C) The Waterworks and Gas Board of the Town of Cherokee, Alabama, the City of Russellville, Alabama, and The Lawrence-Colbert Counties Gas District and the Town of Selmer, Tennessee, and the Cities of Athens, Decatur, Florence, Hartselle, Huntsville, Sheffield and Tusculumbia, Alabama, and Corinth and Iuka, Mississippi, be and the same are hereby permitted to become interveners in the proceeding in Docket No. G-2222, and the Cities of Athens, Decatur, Florence, Hartselle, Huntsville, Sheffield and Tusculumbia, Alabama, Corinth and Iuka, Mississippi, and Selmer, Tennessee, be and the same are hereby permitted to become interveners in the proceedings in Docket Nos. G-2235, G-2243 and G-2244, subject to the rules and regulations of the Commission: *Provided, however* That the participation of the above-named petitioners shall be limited to matters affecting asserted rights and interests specifically set forth in the petition for leave to intervene: *And provided, further* That the admission of the above-named petitioners shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in the respective proceedings.

(D) The proceedings upon the applications in Docket Nos. G-2222, G-2235, G-2243 and G-2244, and that portion of the proceeding upon the application in Docket No. G-2271, involving transportation and sale of additional volumes of gas to Alabama-Tennessee, be and the same are hereby consolidated for purpose of hearing.

(E) Pursuant to the authority contained in and by virtue of the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a formal hearing be held commencing on November 18, 1953, at 10:00 a. m., e. s. t., in the Hearing Room of the Federal Power Commission, 441 G Street NW, Washington, D. C., concerning the matters involved and the issues presented by said applications, as supplemented and amended, and as limited herein with respect to the application in Docket No. G-2271.

(F) In the interest of expedition, all parties to the proceeding herein shall, not later than November 12, 1953, serve upon all parties herein, including Commission Staff counsel, copies of all exhibits and prepared testimony proposed to be offered at the hearing.

(G) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) (18 CFR 1.8 and 1.37 (f)) of the Commission's rules of practice and procedure.

Adopted: October 23, 1953.

Issued: October 28, 1953.

By the Commission.

[SEAL]

J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 53-9258; Filed, Nov. 2, 1953;
8:49 a. m.]

[Docket No. G-2269]

COLORADO INTERSTATE GAS CO.

NOTICE OF APPLICATION

OCTOBER 28, 1953.

Take notice that Colorado Interstate Gas Company (Applicant) a Delaware corporation, with its principal place of business in Colorado Springs, Colorado, filed, on October 7, 1953, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of the following natural-gas facilities:

(1) 49.5 miles of 20-inch transmission line from its presently authorized Morton County Compressor Station, Morton County Kansas, to Compressor Station No. 101 of Natural Gas Pipeline Company of America (Natural), near Hooker, Oklahoma.

(2) A dehydration plant in Morton County, Kansas.

(3) A delivery meter station.

The facilities are proposed to be used to deliver approximately 20,000 Mcf of firm gas per day from the Morton County acreage to Natural and such additional volumes on a firm basis, as may be available up to a total of 50,000 Mcf per day.

The estimated overall cost of the proposed facilities, including production and gathering facilities, is \$3,604,950 which Applicant proposes to finance by borrowing \$3,500,000 on a short term basis.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 18th day of November 1953. The application is on file with the Commission for public inspection.

[SEAL]

LEON M. FUQUAY,
Secretary.

[F. R. Doc. 53-9255; Filed, Nov. 2, 1953;
8:48 a. m.]

[Docket No. G-2272]

BLACKSTONE VALLEY GAS AND ELECTRIC CO.

NOTICE OF APPLICATION

OCTOBER 27, 1953.

Take notice that Blackstone Valley Gas and Electric Company (Applicant), a Rhode Island corporation having its principal place of business in Pawtucket, Rhode Island, filed on October 12, 1953, an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the use, maintenance and operation of certain existing facilities for the purpose of transporting, delivering and selling natural gas to Blackstone Gas Company subject to the jurisdiction of the Commission.

Applicant proposes to deliver natural gas to be received from Northeastern Gas Transmission Company in accordance with the terms of the Commission's Opinion No. 259 and accompanying order issued August 6, 1953, in Docket No. G-1568 et al., to Blackstone Gas Company at the Massachusetts-Rhode Island

state border for distribution in the town of Blackstone, Massachusetts.

Applicant represents that the delivery and sale of natural gas will be accomplished without construction of additional facilities.

Protests or petitions to intervene may be filed with the Federal Power Commission, 441 G Street NW., Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 16th day of November 1953. The application is on file with the Commission for public inspection.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 53-9236; Filed, Nov. 2, 1953;
8:45 a. m.]

[Docket No. G-2279]

EL PASO NATURAL GAS CO.

NOTICE OF APPLICATION

OCTOBER 27, 1953.

Take notice that on October 15, 1953, El Paso Natural Gas Company (Applicant) a Delaware corporation, having its principal place of business at El Paso, Texas, filed an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act authorizing the construction and operation of certain natural gas facilities as hereinafter described.

The facilities which Applicant proposes to construct and operate include a 30-inch O. D. pipeline approximately 3 miles in length extending from Applicant's existing Yuma meter station located in Yuma County, Arizona, easterly and southeasterly direction paralleling Applicant's existing 5-inch O. D. Yuma transmission pipeline to a point of termination in said county together with necessary valves and regulators for utilization of the aforementioned 3-mile section as a storage capacity for meeting peak day demands on its Yuma facilities, and a 150 H. P. portable type field compressor station with appurtenant standard equipment for the operation of the same to be located at the beginning of the 3-mile section of the 30-inch O. D. pipeline.

The 3 miles of storage line and related facilities will be arranged to operate so that when peak demands exceed the maximum delivery capacity of Applicant's 5-inch pipeline, the pressure at the Yuma meter station will begin to drop below contract or required delivery and by means of a regulator controlled by such delivery pressure, as the pressure begins to drop, the regulator will open and pass gas from the 30-inch pipeline.

The application recites that the facilities hereinbefore described will be utilized in conjunction with the operation of its existing facilities for the purpose of making additional deliveries of natural gas to the Arizona Public Service Company for distribution and resale by said company to residents and other users of natural gas within and near the Town of Yuma, Arizona. Applicant asserts that

such increased deliveries will be made primarily to meet the high hourly peak requirements during the period of from 4 to 5 months from November through March of each year. And further that unless such facilities are constructed and placed in operation Applicant will not be able to meet its peak day requirement demands which it anticipates will be made upon its system for additional natural gas which it asserts will result in curtailment of service to the customers of the Arizona Public Service Company in and about the Town of Yuma, Arizona.

The total estimated cost of the proposed facilities is approximately \$303,015 which Applicant proposes to finance out of its current working funds without additional financing.

The Applicant requests that its application be heard under the shortened procedure pursuant to § 1.32 (b) of the Commission's rules of practice and procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 16th day of November 1953. The application is on file with the Commission for public inspection.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 53-9237; Filed, Nov. 2, 1953;
8:45 a. m.]

[Docket No. G-2282]

NATURAL GAS PIPELINE COMPANY OF AMERICA

NOTICE OF APPLICATION

OCTOBER 28, 1953.

Take notice that Natural Gas Pipeline Company of America (Applicant) a Delaware corporation, with its principal place of business in Chicago, Illinois, filed, on October 15, 1953, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of the following natural-gas facilities:

(1) One (1) additional 1250 B. H. P. compressor unit, to be installed at Applicant's existing Compressor Station No. 101, near Hooker, Oklahoma.

(2) 2750 feet of 24-inch pipeline connecting Applicant's Compressor Station No. 101 with its main transmission line.

The facilities are to be used for the compression of gas proposed to be purchased from Colorado Interstate Gas Company, at Docket No. G-2269, as well as that purchased under an existing contract with Panoma Corporation.

The estimated over-all cost of the proposed facilities is \$665,000 which Applicant proposes to finance from funds on hand.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 18th day of November 1953. The appli-

cation is on file with the Commission for public inspection.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 53-9256; Filed, Nov. 2, 1953;
8:43 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 28335]

FOREIGN WOODS FROM GULF PORTS TO VIRGINIA

APPLICATION FOR RELIEF

OCTOBER 29, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for carriers parties to Agent C. A. Spaninger's tariff I. C. C. No. 1356.

Commodities involved: Lumber, logs, flitches or piling of foreign woods, built-up woods, dimension stock and carpenter's moulding, carloads.

From: Pensacola, Fla., Mobile, Ala., Gulfport, Miss., and New Orleans, La.

To: Points in Virginia.

Grounds for relief: Competition with rail carriers, circuitous routes, and to maintain grouping.

Schedules filed containing proposed rates: C. A. Spaninger's tariff I. C. C. No. 1356, supp. 9.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 53-9253; Filed, Nov. 2, 1953;
8:49 a. m.]

[4th Sec. Application 28336]

LIQUEFIED CHLORINE GAS FROM WEST VIRGINIA, TO POINTS IN THE SOUTH

APPLICATION FOR RELIEF

OCTOBER 29, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by H. R. Hinsch, Alternate Agent, for carriers parties to his tariffs I. C. C. Nos. 4367 and 4510, pursuant to fourth-section order No. 17220.

Commodities involved: Liquefied chlorine gas, tank-car loads.

From: Points in West Virginia.

To: Points in Florida, Georgia, North Carolina, South Carolina, and Tennessee.

Grounds for relief: Competition with rail carriers and circuitous routes.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Secretary.

[F. R. Doc. 53-9260; Filed, Nov. 2, 1953;
8:49 a. m.]

[4th Sec. Application 28597]

LARD FROM MEMPHIS, TENN., TO GEORGIA

APPLICATION FOR RELIEF

OCTOBER 29, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to Agent C. A. Spaninger's tariff I. C. C. No. 1215.

Commodities involved: Lard, lard compounds, lard substitutes, cooking oils, salad oils or vegetable oil shortening, in packages, carloads.

From: Memphis, Tenn.

To: Atlanta, Columbus, La Grange, Rome and West Point, Ga.

Grounds for relief: Competition with motor carriers.

Schedules filed containing proposed rates: C. A. Spaninger's tariff I. C. C. No. 1215, supp. 34.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Secretary.

[F. R. Doc. 53-9261; Filed, Nov. 2, 1953;
8:49 a. m.]

[4th Sec. Application 28598]

KYANITE FROM CLOVER, S. C., TO
WHEELING, W. VA.

APPLICATION FOR RELIEF

OCTOBER 29, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by R. E. Boyle, Jr., Agent, for carriers parties to Agent C. A. Spaninger's tariff I. C. C. No. 1346.

Commodities involved: Kyanite, crude or ground, carloads.

From: Clover, S. C.

To: Wheeling, W. Va.

Grounds for relief: Competition with rail carriers and circuitous routes.

Schedules filed containing proposed rates: C. A. Spaninger's tariff I. C. C. No. 1346, supp. 27.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Secretary.

[F. R. Doc. 53-9262; Filed, Nov. 2, 1953;
8:49 a. m.]

[Rev. S. O. 562, Taylor's I. C. C. Order 30]

MINNESOTA WESTERN RAILWAY CO.

REROUTING OR DIVERSION OF TRAFFIC

In the opinion of Charles W. Taylor, Agent, the Minnesota Western Railway Company, account bridge out of service, is unable to transport traffic routed over its line: *It is ordered*, That:

(a) Rerouting traffic: The Minnesota Western Railway Company being unable to transport traffic routed over its line, because of bridge out of service, is hereby authorized to divert or reroute such

traffic over any available route to expedite the movement, regardless of the routing shown on the waybill. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) Concurrence of receiving roads to be obtained: The railroad desiring to divert or reroute traffic under this order shall confer with the proper transportation officer of the railroad or railroads to which such traffic is to be diverted or rerouted, and shall receive the concurrence of such other railroads before the rerouting or diversion is ordered.

(c) Notification to shippers: Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said Agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective at 9:00 a. m., October 27, 1953.

(g) Expiration date: This order shall expire at 11:59 p. m., November 26, 1953, unless otherwise modified, changed, suspended or annulled.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., October 27, 1953.

INTERSTATE COMMERCE
COMMISSION,
CHARLES W TAYLOR,
Agent.

[F. R. Doc. 53-9264; Filed, Nov. 2, 1953;
8:50 a. m.]

[Rev. S. O. 562, Taylor's I. C. C. Order 31]

NEW YORK, NEW HAVEN AND HARTFORD
RAILROAD CO.

REROUTING OR DIVERSION OF TRAFFIC

In the opinion of Charles W. Taylor, Agent, The New York, New Haven and Hartford Railroad Company, account of derailment at East Walden, New York, approximately five miles east of May-

brook, New York, is unable to transport traffic routed over its line between Maybrook and Hopewell Junction, New York: *It is ordered, That:*

(a) Rerouting traffic: The New York, New Haven and Hartford Railroad Company, being unable to transport traffic routed over its line between Maybrook and Hopewell Junction, because of derailment at East Walden, New York, and its connections, is hereby authorized to divert or reroute such traffic over any available route to expedite the movement, regardless of the routing shown on the waybill. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) Concurrence of receiving roads to be obtained: The railroads desiring to divert or reroute traffic under this order shall confer with the proper transportation officer of the railroad or railroads to which such traffic is to be diverted or rerouted, and shall receive the concurrence of such other railroads before the rerouting or diversion is ordered.

(c) Notification to shippers: Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said Agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective 9:00 a. m., October 28, 1953.

(g) Expiration date: This order shall expire at 9:00 a. m., October 30, 1953, unless otherwise modified, changed, suspended or annulled.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., October 28, 1953.

INTERSTATE COMMERCE
COMMISSION,
CHARLES W. TAYLOR,
Agent.

[F. R. Doc. 53-9265; Filed, Nov. 2, 1953; 8:50 a. m.]

No. 215—8

OFFICE OF DEFENSE MOBILIZATION

EDENTON, NORTH CAROLINA, AREA

FINDING AND DETERMINATION OF CRITICAL DEFENSE HOUSING AREAS UNDER DEFENSE HOUSING AND COMMUNITY FACILITIES AND SERVICES ACT OF 1951, AS AMENDED

Upon a review of specific data presented to me, I find that all of the conditions set forth in section 101 (b) of the Defense Housing and Community Facilities and Services Act of 1951, as amended, exist in the

Edenton, North Carolina, Area: The area consists of all of Chowan County, North Carolina.

Accordingly, pursuant to section 101 of the Defense Housing and Community Facilities and Services Act of 1951 and by virtue of the authority vested in me by Executive Order 10296 of October 2, 1951, I hereby determine that said area is a critical defense housing area.

Dated: October 29, 1953.

ARTHUR S. FLEMING,
Director
Office of Defense Mobilization.

[F. R. Doc. 53-9305; Filed, Oct. 30, 1953; 2:42 p. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-2873]

SIMPLICITY PATTERN CO., INC.

NOTICE OF APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION, AND OF OPPORTUNITY FOR HEARING

OCTOBER 28, 1953.

Simplicity Pattern Co., Inc., pursuant to section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 (b) promulgated thereunder, has made application to withdraw its Common Stock, \$1 Par Value, from listing and registration on the Detroit Stock Exchange.

The reasons alleged in the application for withdrawing this security from listing and registration are as follows:

(1) No transactions in this security have taken place on the Detroit Stock Exchange during the year 1953 up until the present date.

(2) Since the only transactions on a national securities exchange that are now being effected in this security are taking place on the American Stock Exchange where the security will continue to be listed and registered, applicant does not feel justified in continuing the expense of listing and registration on the Detroit Stock Exchange.

Upon receipt of a request, prior to November 20, 1953, from any interested person for a hearing in regard to terms to be imposed upon the delisting of this security, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take at the hearing with

respect to imposition of terms or conditions. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application, and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 53-9243; Filed, Nov. 2, 1953; 8:46 a. m.]

[File No. 1-3237]

ADOLF GOBEL, INC

-ORDER SUMMARILY SUSPENDING TRADING

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 28th day of October A. D. 1953.

The Commission by order adopted March 13, 1953, pursuant to section 19 (a) (4) of the Securities Exchange Act of 1934, having summarily suspended trading in the \$1 par value common stock of Adolf Gobel, Inc. on the American Stock Exchange for a period of ten days from that date, and subsequently having entered additional orders further suspending such trading in order to prevent fraudulent, deceptive or manipulative acts or practices; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on that Exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion that such suspension is necessary in order to prevent fraudulent, deceptive or manipulative acts or practices, with the result that it will be unlawful under section 15 (c) (2) of the Securities Exchange Act of 1934 and the Commission's Rule X-15C2-2 thereunder, for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, such security otherwise than on a national securities exchange.

It is ordered, Pursuant to section 19 (a) (4) of the Securities Exchange Act of 1934, that trading in said securities on the American Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, effective at the opening of the trading session on said Exchange on October 29, 1953, for a period of ten days.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 53-9239; Filed, Nov. 2, 1953; 8:46 a. m.]

[File Nos. 69-71, 70-2507]

PENN FUEL GAS, INC., AND JOHN H.
WARE, 3DSUPPLEMENTAL ORDER GRANTING APPLICA-
TION WITH RESPECT TO FEES AND EX-
PENSES

OCTOBER 27, 1953.

In the matter of Penn Fuel Gas, Inc.,
and John H. Ware, 3d, File No. 70-2507;
Penn Fuel Gas, Inc., File No. 69-71.

The Commission having by order,
dated June 29, 1951, granted the appli-
cation, as amended, of Penn Fuel Gas,
Inc. ("Penn Fuel") an exempt holding
company, for approval pursuant to sec-
tion 10 of the Public Utility Holding
Company Act of 1935 ("act") of the ac-
quisition from John H. Ware, 3d, the
owner of all of Penn Fuel's outstanding
common stock, of the outstanding securi-
ties of seven gas utility companies and
of certain related transactions;

The record having been incomplete
with respect to the fees and expenses
proposed to be paid by Penn Fuel for
services in connection with the proposed
transactions;

Penn Fuel having filed a further
amendment to its application setting
forth the nature and extent of the serv-
ices rendered and the fees and expenses
proposed to be paid in connection there-
with, as follows:

	<i>Fees and expenses</i>
Morgan, Lewis & Bockius, a com- pany counsel:	
Fee	\$12,500.00
Expenses	969.74
Ropes, Gray, Best, Coolidge & Rugg, counsel to Massachusetts Mutual Life Insurance Co., purchaser of Penn Fuel's bonds:	
Fee	3,500.00
Expenses	381.69
George H. Dean Co., printing in- denture and exchange agree- ment	2,258.49
Other	1,026.70
Total	20,636.82

Penn Fuel having requested that the
Commission approve the payment of the
aforesaid fees and expenses;

The Commission having examined the
record as further amended and it ap-
pearing to the Commission that the re-
quested fees and expenses are not un-
reasonable;

It is ordered, That the application as
further amended with respect to the fees
and expenses proposed to be paid by
Penn Fuel be, and the same hereby is,
granted.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.[F. R. Doc. 53-9240; Filed, Nov. 2, 1953;
8:46 a. m.]

[File No. 70-3114]

CONSOLIDATED NATURAL GAS Co.

ORDER AUTHORIZING SALE OF CERTAIN GAS
PROPERTIES OF SUBSIDIARY

OCTOBER 28, 1953.

Consolidated Natural Gas Company
("Consolidated"), a registered holding

company, having filed with the Commis-
sion a declaration and an amendment
thereto pursuant to section 12 (d) of the
Public Utility Holding Company Act of
1935 ("the act") and Rule U-44 there-
under, in which Consolidated proposes
that its wholly-owned subsidiary Hope
Natural Gas Company ("Hope") shall
sell to the Manufacturers Light and
Heat Company ("Manufacturers") for a
consideration of approximately \$277,816
certain gas leases, wells and equipment
owned by Hope within the area of Manu-
facturers' Victory Storage Field in
Wetzel and Marshall counties, West
Virginia; which sale and transfer of gas
properties and facilities have heretofore
been approved by the Public Service
Commission of West Virginia; and

Due notice of the filing of said declara-
tion having been given, and a hearing
not having been requested of or ordered
by the Commission; and

The Commission finding that the ap-
plicable provisions of the act and the
rules thereunder are satisfied and that
no adverse findings are necessary, and
deeming it appropriate in the public in-
terest and in the interest of investors
and consumers that said declaration be
permitted to become effective forthwith:

It is ordered, Pursuant to Rule U-23
and the applicable provisions of the act,
that said declaration be, and hereby is,
permitted to become effective forthwith,
subject to the terms and conditions pre-
scribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.[F. R. Doc. 53-9241; Filed, Nov. 2, 1953;
8:46 a. m.]

[File No. 70-3143]

MISSOURI POWER & LIGHT Co.

NOTICE OF FILING REGARDING ISSUANCE OF
SHORT-TERM NOTE

OCTOBER 28, 1953.

Notice is hereby given that Missouri
Power & Light Company ("Missouri")
a public utility subsidiary company of
Union Electric Company of Missouri, a
registered holding company, has filed a
declaration pursuant to section 7 of the
Public Utility Holding Company Act of
1935 ("act") with this Commission with
respect to a proposed transaction which
is summarized below.

On September 21, 1953, Missouri en-
tered into a conditional agreement with
The Chase National Bank of the City of
New York whereby said bank agreed to
make an unsecured loan to Missouri in
the principal amount of \$2,800,000 on
December 10, 1953. The proceeds of the
proposed loan will be used by Missouri
to pay notes to be outstanding and ma-
turing on December 10, 1953, in that
amount. The notes to be then paid by
Missouri were authorized by the order of
this Commission dated December 8, 1952.
The proposed loan will be evidenced by
an unsecured promissory note for
\$2,800,000 which will mature on Septem-
ber 10, 1954, and will bear interest until
maturity or prior payment at the rate
of 3 1/4 percent per annum or at the

prime commercial rate of interest of The
Chase National Bank of the City of
New York for such paper at the time of
the borrowing, whichever is higher. The
interest will be payable on June 10, 1954,
and at maturity. Missouri intends sub-
sequently to fund the proposed loan
through the issue and sale of stock,
mortgage bonds or other form of per-
manent financing.

The declaration states that no State
or Federal Commission, other than this
Commission, has jurisdiction over the
proposed transaction.

Fees and expenses are estimated at
\$1,250, including counsel fees of \$500.

Notice is further given that any in-
terested person may, not later than No-
vember 13, 1953, at 5:30 p. m., e. s. t.,
request the Commission in writing that
a hearing be held on such matter, stating
the reasons for such request, the nature
of his interest and the issues of fact or
law raised by said filing which he desires
to controvert, or may request that he be
notified if the Commission should order
a hearing thereon. Any such request
should be addressed: Secretary, Securi-
ties and Exchange Commission, 425
Second Street NW., Washington 25, D. C.
At any time after November 13, 1953,
such declarations as filed or as amended,
may be granted or permitted to become
effective, as provided in Rule U-23 of the
rules and regulations promulgated under
the act or the Commission may exempt
such transaction as provided in Rules
U-20 (a) and U-100 thereof.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.[F. R. Doc. 53-9242; Filed, Nov. 2, 1953;
8:46 a. m.]SUBVERSIVE ACTIVITIES
CONTROL BOARD

[Docket No. 110-53]

HERBERT BROWNELL, JR., ATTORNEY GEN-
ERAL OF THE UNITED STATES, PETITIONER,
V. COUNCIL ON AFRICAN AFFAIRS, INC.,
RESPONDENT

NOTICE OF HEARING

Notice is hereby given that, pursuant
to the Subversive Activities Control Act
of 1950, (Title I of the Internal Security
Act of 1950, Pub. Law 831, 81st Cong.,
50 U. S. C. 781 et seq.), particularly
section 13 of said act (50 U. S. C. 792),
a hearing in the above-entitled proceed-
ing on the petition of the Attorney Gen-
eral for an order of the Board requiring
the Respondent to register pursuant to
section 7 of said act (50 U. S. C. 786),
will be held commencing on Monday,
November 23, 1953, at 10:00 a. m., e. s. t.,
in Hearing Room 113 in the Lafayette
Building, 811 Vermont Avenue NW.,
Washington, D. C.

Dated at Washington, D. C., October
27, 1953.

[SEAL] THOMAS J. HERBERT,
Chairman.[F. R. Doc. 53-9244; Filed, Nov. 2, 1953;
8:46 a. m.]